

Dr. Larkin,

Thank you for your comments! I'll pass these on to the Board members for their review.

Have a great day!

Kathy

Kathleen Lynch

Administrative Assistant

WV Board of Examiners of Psychologists

PO Box 3955

Charleston, WV 25339-3955

Office Phone: 304-558-3040

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New Web Address

psychbd.wv.gov

From: Kevin Larkin [<mailto:klarkin@wvu.edu>]

Sent: Wednesday, July 05, 2017 12:42 PM

To: Lynch, Kathy G <Kathy.G.Lynch@wv.gov>

Cc: Barry Edelstein <barry.edelstein@mail.wvu.edu>; drj.psychasso@comcast.net

Subject: RE: Comment Period Open

Kathy,

I have reviewed the "Proposed Rules for Comment" that the BOE has posted on their website. I have two comments I would like to register:

1. Title 17, Series 3: (See Series 3 Comments)
2. Title 17, Series 6: It is unclear whether the new WVBOE Code of Conduct is meant to replace the currently used APA Code of Conduct or whether it is to supplement it. There appears to be a good bit of redundancy between these two codes, so I am curious what rationale supports the statement that the new code is needed to be more "legally demanding" to be pertinent to the practice of psychology in WV?

Thank you for the opportunity to provide feedback and input into the revisions to rules that the BOE is considering.

Kevin

cc: Jeff Hammond; Barry Edelstein

Keith,

Thank you for the comments. I'll send these out to the Board for their review.

Have a great day!
Kathy

Kathleen Lynch
Administrative Assistant
WV Board of Examiners of Psychologists
PO Box 3955
Charleston, WV 25339-3955
Office Phone: 304-558-3040
Office Fax: 304-558-0608

New Web Address
psychbd.wv.gov

-----Original Message-----

From: Beard, Keith [<mailto:Beard@marshall.edu>]
Sent: Monday, July 24, 2017 1:53 PM
To: Lynch, Kathy G <Kathy.G.Lynch@wv.gov>
Subject: Fwd: Lic Board proposed rule changes

Kathy-
Also sending to you to make sure people get it. Thanks! Keith

Sent from my iPhone

Begin forwarded message:

From: "Beard, Keith" <Beard@marshall.edu<<mailto:Beard@marshall.edu>>>
Date: July 24, 2017 at 9:22:35 AM PDT
To: "psychbd@wv.gov<<mailto:psychbd@wv.gov>>"
<psychbd@wv.gov<<mailto:psychbd@wv.gov>>>
Subject: Lic Board proposed rule changes

7. Regarding the new Series 6

What is the rationale for development of this new Series? We assume that a well-articulated rationale exists, but it is not n't immediately clear why we will no longer adopt the APA Code. Is there new state code that requires this? If so, we (the profession) ought to be informed about that. If not, what problem is being solved by making this change? As an aside, it seems ironic that much of the wording is identical to the APA code without attribution to the source. ! We believe that a clear rationale ought to be provided to the profession prior to adoption of the new series.

Specific points regarding Series 6:

8. 17.6.14.4- "assessment data refers to..." - this defining language is overly restrictive- it seems to eliminate from the definition of "assessment data" any behavioral observations, reports from significant others, relevant documents, etc. Again, what is the purpose of this limited definition? We realize that the section refers to testing materials, but why then broaden the terminology to the more inclusive concept of "assessment"? Forensic psychologists, in particular might be concerned about this, given the ways in which psychologists' testimony can be attacked on the witness stand. Note that Series 3, 17. 23.1 (which also discusses assessment) uses the words "includes" testing, but the discussion does not n't limit assessment to testing.

9. 17.6.18.1- focuses on psychologists reporting ethical violations of other psychologists to the Board. We wonder why the wording limits these reports only to violations that "might reasonably be expected to harm a client"? Why would licensees not be expected to report possible harm to a student or to the profession as a whole (e.g. research ethical violations, false advertising, etc.)?

Thank you s for your consideration of these issues, and we look forward to hearing from you soon.

Sincerely,

Keith Beard, Psy. D.

President, West Virginia Psychological Association

WV BOARD OF EXAMINERS OF PSYCHOLOGISTS

Title 17 Series 6 - Board Responses to Comments

Note: In addition placing a call for comments on the Board's website and in the State Journal, over 700 psychologists, school psychologists and supervisees were sent e-mails notifying them of the proposed rule changes and requesting their comments. In regard to the ethical code, only 4 comments were received.

CHANGES MADE IN RESPONSE TO COMMENTS

§17-6-18.1. – Broader Definition of Client

Comment: "17.6.18.1 focuses on psychologists reporting ethical violations of other psychologists to the Board. We wonder why the wording limits these reports only to violations that "might reasonably be expected to harm a client"? Why would licensees not be expected to report possible harm to a student or to the profession as a whole (e.g. research ethical violations, false advertising, etc.)? said Keith Beard, Psy.D. of the West Virginia Psychological Association

Board Response:

Change: The Board changed the wording from "might be reasonably being expected to harm a client" to "to be harmful."

The Reason the Change Was Made: The Board agrees that the previous wording may have been interpreted to exclude students and others. The change was made to make the wording broader.

§17-6-14.4. - Doctoral Candidates Limited to Five Attempts to Pass the EPPP

Comment: “Assessment data refers to...” This defining language is overly restrictive. It seems to eliminate from the definition of “assessment data” any behavioral observations, reports from significant others, relevant documents, etc.,” stated Keith Beard, Psy.D. - West Virginia Psychological Association

Board Response:

Change: In light of the review of your comments the Board made these alterations to Series 6: (a) the term “Assessment data” was added to §17-6-14.1., and (b) the following phrase was added to §17-6-14.2: *“as well as responses of significant others, parents, teachers, and other third-parties to collateral assessment instrument questions or stimuli.”*

The Reason the Change Was Made: The change was made because the Board believes the new wording is broader. There is nothing in the final wording of section 6.14 that precludes psychologists from including record and/or literature review in their reports.

CHANGES NOT MADE

§17-6 – Request for Rationale - 1

Comment: “What is the rationale for development of this new Series?...We believe that a clear rationale ought to be provided to the profession prior to adoption of the new series,” stated Keith Beard, Psy.D. of the West Virginia Psychological Association

No Change: Section §17-6 remains intact.

The Reason the Change Was Not Made: While a rationale was not provided in the rule, the Board created its own code of ethics to make it more legally binding and enforceable and not cede legal authority to an external organization. It is a stand-alone document and is not a supplement to the APA Code. The Board’s code was written in response, in part, to recommendations of legal counsel from the Association of State and Provincial Psychology Boards and from West Virginia Attorney General legal counsel. A rationale was not provided in Title 17, Series 6 because section 2.1 describes the purpose of the code and it is obvious that the new code is implemented to enhance the Board’s ability to complete its primary mission, which is to protect the public from unethical psychologists.

§17-6 – Request for Rationale - 2

Comment: “It is unclear whether the new WVBOE Code of Conduct is meant to replace the currently used APA Code of Conduct or whether it is to supplement it. There appears to be a good bit of redundancy between these two codes, so I am curious what rationale supports the statement that the new code is needed to be more “legally demanding” to be pertinent to the practice of psychology in WV? It is unclear whether the new WVBOE Code of Conduct is meant to replace the currently used APA Code of Conduct or whether it is to supplement it. There appears to be a good bit of redundancy between these two codes, so I am curious what rationale supports the statement that the new code is needed to be more “legally demanding” to be pertinent to the practice of psychology in WV? ,” denoted Kevin Larkin, Ph.D. of West Virginia University.

Board Response:

No Change: Section §17-6 remains intact.

The Reason the Change Was Not Made: While a rationale was not provided in the rule, the Board created its own code of ethics to make it more legally binding and enforceable and not cede legal authority to an external organization. It is a stand-alone document and is not a supplement to the APA Code. The Board's code was written in response, in part, to recommendations of legal counsel from the Association of State and Provincial Psychology Boards and from West Virginia Attorney General legal counsel. A rationale was not provided in Title 17, Series 6 because section 2.1 describes the purpose of the code and it is obvious that the new code is implemented to enhance the Board's ability to complete its primary mission, which is to protect the public from unethical psychologists.



October 5, 2017

Keith Beard, Psy.D.
Marshall University Psychology Dept.
One John Marshall Drive
Huntington, WV 25755

Dear Dr. Beard:

Thank you for taking the time to comment on the Board's proposed changes to its Legislative Rules. After reviewing your comments, the Board's responses are as follows:

§17-1 Fees

Comment: "More broadly, we understand and appreciate the need to increase fees for licensure. This will hopefully allow the WVBOE to remain an independent entity. We believe consolidation with other mental health boards would be dangerous and less effective for the citizens of our state, considering the scope of psychologists' practice," said Keith Beard, Psy.D.
- West Virginia Psychological Association

Board Response:

No Change: Section §17-1 remains intact.

Board Response: The support from WVPA of the fee increase is greatly appreciated. The Board welcomes the support of your organization and its 113 members and its recognition that the Board needs the additional fees to cover rising costs of operating the Board, remain financially independent, and not need funding from the WV Legislature. It has been 13 years since the Board had an increase in its fees.

§17-3-5.1. Academic and Research Supervised Experience

Comment: "The proposed revision eliminates the entire whole section on supervised teaching and supervision performed done by clinically oriented faculty from the list of acceptable professional experiences that count towards requirements for licensure. There is no rationale provided for this elimination, and no identification of the problem that is being addressed by the change. Conceptually, this doesn't seem to make sense, as since the year of post doctoral supervision is supposed meant to better prepare the professional to independently work within his/her area of professional expertise. In the case of clinical faculty members, teaching and supervising, and possibly doing clinically oriented research is the kind of work that a clinical faculty member is most likely to be doing post licensure. Further, on a practical level, this is likely to hurt recruitment of clinical faculty because most clinical programs require their faculty to

be licensed, and if the work they do as faculty members cannot count, it would be virtually impossible for brand new psychologists to gain required experience in a timely manner. We realize that many, if not most candidates will have had an appropriate internship and meet the requirement in that manner, but it is possible that they might not. And, even those that do may want to have an official year of Board recognized supervision to assist with future licensure needs in other states. We don't see why that section of professional clinically oriented work should be eliminated. On the other hand, we certainly agree that everyone seeking licensure needs to have supervision in the areas they plan to practice and thus a faculty member who intends to also practice outside of their campus obligations should demonstrate ongoing appropriate supervision of their own clinical work in addition to supervision of clinical faculty work; however, but one doesn't have to exclude the other, stated Keith Beard, Psy.D. - West Virginia Psychological Association

Board Response:

Change: In light of consideration of your comment, the Board restored the pertinent section to the rules and added: *"However, these hours for teaching, supervising, and research activities shall not exceed 50% of the total hours required for acceptable supervised experience."*

The Reason the Change Was Made: The Board agreed with your logic that academic and research psychologists should be given credit for work in their domains of expertise. The 50% threshold was enacted because licensure is for clinical practice.

17-3-4.5. Pre-Doctoral Internship Immediate Qualification to Sit for Oral Examination with Successful Passage of the EPPP

Comment: "Further, we support the change in Rules to fully enact the Sequence of Training legislation and elimination of post-doctoral training year for qualified doctoral applicants. We believe this will greatly improve the climate for practice in our state, with no additional documented risk to the public. This change also brings West Virginia in line with other state requirements for licensure, including Maryland, Kentucky, and Ohio," noted Keith Beard, Psy.D. of the West Virginia Psychological Association. **Board Response:** This section of the rules remains intact. Your support of it is appreciated.

§17-3-22. Special Volunteer Psychologist License - 1

Comment: "Finally, we also support of the addition of the new section in Series 3 concerning licensure for Volunteer Psychologists. This is a thoughtful response to the need for more psychologists willing to work with underserved populations," said Keith Beard, Psy.D. of the West Virginia Psychological Association. **Board Response:** The Board also encourages psychologists to volunteer their services. Thank you for your endorsement of §17-3-22, which remains intact in the current proposed rules.

§17-3-4.5 Doctoral Degree Equivalency

Comment: The last part of this section focuses on applicants for licensure people who did not have an internship. As best we can tell, this would only include candidates who did not complete go through APA-accredited or at least APA "style" professional training programs. For example, this might be someone graduating from an educational psychology program or perhaps a developmental program who now wants to seek licensure. Since our law is a generic law, in principle graduates of these programs can seek licensure as psychologists. However, it is the Licensure Board's responsibility to seek demonstration from the candidate that s/he has the

appropriate education and training and supervised experience to engage in the intended areas of independent professional practice. Thus, we believe that the wording in this section (or perhaps in 17.3.4.3) should include something to the effect that "... the applicant's academic record must demonstrate doctoral level coursework and supervised experience appropriate to the intended areas of professional practice; the appropriateness of such training to be evaluated by the Board," said Keith Beard, Psy.D. of the West Virginia Psychological Association

Board Response:

No Change: Section §17-3-4.5 remains intact. Please note that the last sentence of §17-3-4.5 requires a year of supervision for doctoral applicants who have not had a pre-doctoral internship *or for those who had an internship which did not meet the 1,800 hour requirement.*

The Reason the Change Was Not Made: The doctoral degree equivalency is comprehensively addressed in section 17-3-4.1. In part it reads: "W. Va. Code §30-21-7 requires that doctoral level applicants possess a doctor of philosophy degree (Ph.D.), or the equivalent. The Psy.D. is determined to be equivalent to the Ph.D. The Board or its Committee shall evaluate all equivalency applications. It is the responsibility of equivalency applicants to prove equivalency. The Board may not automatically grant equivalency status. Applications based on an equivalent degree may require more time to process because of the need to obtain more information." Please note that sections 4.3 and 4.4 clearly describe an acceptable equivalency internship.

§17-3-20.11 Questioned Need for Continuing Education Pertinent to Veterans

Comment: "Since no rationale is provided for this new requirement for CEUs focused on treatment of veterans we don't fully understand the reasoning behind it. Much as we appreciate the importance of preparation to work with veterans and their families, this seems like an unexplained demand. Why would ALL licensees be required to do this, rather than some other type of CE?" said Keith Beard, Psy.D. of the West Virginia Psychological Association

Board Response:

No Change: Section §17-3-20.11 remains intact.

The Reason the Change Was Not Made: The Board supports the enhancement of treatment provided to Veterans by psychologists.

§17-6-18.1. – Broader Definition of Client

Comment: "17.6.18.1 focuses on psychologists reporting ethical violations of other psychologists to the Board. We wonder why the wording limits these reports only to violations that "might reasonably be expected to harm a client"? Why would licensees not be expected to report possible harm to a student or to the profession as a whole (e.g. research ethical violations, false advertising, etc.)? said Keith Beard, Psy.D. of the West Virginia Psychological Association

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§17-6-14.4. – Assessment Data Language Overly Restrictive

Comment: “Assessment data refers to...” This defining language is overly restrictive. It seems to eliminate from the definition of “assessment data” any behavioral observations, reports from significant others, relevant documents, etc.,” stated Keith Beard, Psy.D. - West Virginia Psychological Association

Board Response:

Change: In light of the review of your comments the Board made these alterations to Series 6: (a) the term “Assessment data” was added to §17-6-14.1., and (b) the following phrase was added to §17-6-14.2: *“as well as responses of significant others, parents, teachers, and other third-parties to collateral assessment instrument questions or stimuli.”*

The Reason the Change Was Made: The change was made because the Board believes the new wording is broader. There is nothing in the final wording of section 6.14 that precludes psychologists from including record and/or literature review in their reports.

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No Change: Section §17-6 remains intact.

The Reason the Change Was Not Made: While a rationale was not provided in the rule, the Board created its own code of ethics to make it more legally binding and enforceable and not cede legal authority to an external organization. It is a stand-alone document and is not a supplement to the APA Code. The Board’s code was written in response, in part, to recommendations of legal counsel from the Association of State and Provincial Psychology Boards and from West Virginia Attorney General legal counsel. A rationale was not provided in Title 17, Series 6 because section 2.1 describes the purpose of the code and it is obvious that the new code is implemented to enhance the Board’s ability to complete its primary mission, which is to protect the public from unethical psychologists.

Again, the Board appreciates your interest in its efforts to meet its primary mission of protecting the public.

Sincerely Yours,


Jeffrey Harlow, Ph.D.
Executive Director



October 4, 2017

Kevin T. Larkin, Ph.D.
WVU Dept. of Psychology
53 Campus Dr., Life Sciences Bld.
Morgantown, WV 26506

Dear Dr. Larkin:

Thank you for taking the time to comment on the Board's proposed changes to its Legislative Rules. After reviewing your comments, the Board's responses are as follows:

§17-3-3.1. Master's Degree On-Campus and Online Coursework

Comment: "I am not sure of the rationale for dropping the percentage from 80% to 50% in the proposed revision of Series 3, but I must assume the BOE has evidence to show that competent health service psychologists can be trained in programs that adhere to the 50% rule as well as those that have higher standards," denoted Kevin Larkin, Ph.D. of West Virginia University.

Board Response:

No Change: Section §17-3-3.1 remains intact.

The Reason the Change Was Not Made: The Board determined that by lowering the requirement for the Master's degree program on-campus coursework from 80% to 50% reflects the fact that West Virginia University, Marshall University, and other universities have significantly increased the amount of courses and degrees that are available online.

§17-3-3.1. Doctoral Degree On-Campus and Online Coursework

Comment: "Presumably, a doctoral applicant from an entirely online program would be eligible for licensure in WV, but a master's applicant from an entirely online program would not be eligible. If training in health service psychology requires hands-on direct supervision and training and regular interactions with a cohort of peers (which I believe it does), it seems to me that the same criteria should be adopted for both doctoral and master's degree applicants," said Kevin Larkin, Ph.D. of West Virginia University.

Board Response:

No Change: Section §17-3-3.1 remains intact.

The Reason the Change Was Not Made: This issue is addressed by existing Law and Rules. Online doctoral program applicants are evaluated under the reciprocity provisions of the Law and Rules.

§17-6 – Request for Rationale - 2

Comment: “It is unclear whether the new WVBOE Code of Conduct is meant to replace the currently used APA Code of Conduct or whether it is to supplement it. There appears to be a good bit of redundancy between these two codes, so I am curious what rationale supports the statement that the new code is needed to be more “legally demanding” to be pertinent to the practice of psychology in WV? It is unclear whether the new WVBOE Code of Conduct is meant to replace the currently used APA Code of Conduct or whether it is to supplement it. There appears to be a good bit of redundancy between these two codes, so I am curious what rationale supports the statement that the new code is needed to be more “legally demanding” to be pertinent to the practice of psychology in WV? ,” denoted Kevin Larkin, Ph.D. of West Virginia University.

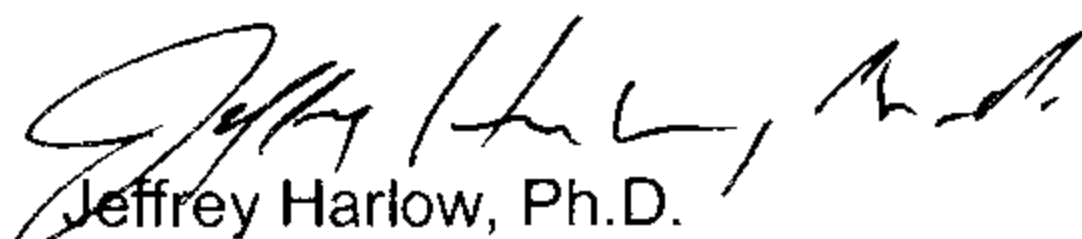
Board Response:

No Change: Section §17-6 remains intact.

The Reason the Change Was Not Made: While a rationale was not provided in the rule, the Board created its own code of ethics to make it more legally binding and enforceable and not cede legal authority to an external organization. It is a stand-alone document and is not a supplement to the APA Code. The Board’s code was written in response, in part, to recommendations of legal counsel from the Association of State and Provincial Psychology Boards and from West Virginia Attorney General legal counsel. A rationale was not provided in Title 17, Series 6 because section 2.1 describes the purpose of the code and it is obvious that the new code is implemented to enhance the Board’s ability to complete its primary mission, which is to protect the public from unethical psychologists.

Again, the Board appreciates your interest in its efforts to meet its primary mission of protecting the public.

Sincerely Yours,


Jeffrey Harlow, Ph.D.
Executive Director