



Vermont Board of Psychological Examiners
Newsletter

VPEN



Message from the Chair

In December of 2002, the Vermont Board of Psychological Examiners issued its first newsletter (VPEN). One purpose for initiating VPEN was to provide licensees with a description of how the Board functions in the handling of disciplinary cases. In continuing with that intent, the focus of this issue is to provide licensees with information on the complaint process. The areas to be covered include the initial screening of the complaint, the make up and role of the investigative team (I-Team), the investigative process and the recommendations from the I-Team to the Board. In the next issue we will address the hearing procedures which are outlined by the Office of Professional Regulation.

Last spring I attended a VPA sponsored workshop presented by Dr. Eric Harris of the APA Insurance Trust. His presentation was entitled *Legal and Ethical Risks and Risk Management in Professional Psychological Practice*. This workshop brought to my attention the perception that psychology boards are sometimes unnecessarily punitive and perhaps arbitrary in disciplining licensees for alleged unprofessional or unethical behavior. An opposing perception coming from the lay public is that psychology boards are overly lenient and protect their own colleagues. Those who make this accusation cite the vulnerability of the population we treat.

A closer look at what we do gives a more accurate view. The five members of the Vermont Board diligently strive to make careful decisions that are fair, taking into consideration all the information presented to us. The procedures we use are well defined in the Vermont Statutes and Rules. We are also guided by our board counsel to ensure accurate interpretation of those laws. Most of the complaints are closed without sanction. Over the past five years the Board has received complaints against an average of 2% of licensees. Of those 92.4% were closed without sanction.

We are well aware that a license to practice psychology in Vermont represents years of study and supervised experience, adherence to certain ethical codes and hours of continuing education. The Vermont state legislature has determined that licensing is required to protect the public. They have entrusted the Board with the responsibility to enforce the licensing laws. What makes the license so valuable is that the public views a licensed psychologist as a highly educated and skilled professional. The Board's mandate is to insure that all licensees meet those standards.

Barbara Van Drimmelen, Psy.D., Chair

Governor

The Honorable James Douglas

Secretary of State

Deborah L. Markowitz

Office of Professional Regulation

Jessica G. Porter, Esq., Director

Members of the Board

Barbara Van Drimmelen, Psy.D., Chair

Maxie S. Ewins, Vice-Chair

Kathleen Smith, Secretary

William L. Cunningham, Ph.D.

Steve Lewis, Psy.D.

Board Staff

Rita Knapp, Division Administrator

Peggy Atkins, Board Administrator

Larry S. Novins, Esq., Board Counsel

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Vermont Board of Psychological Examiners

Office of Professional Regulation

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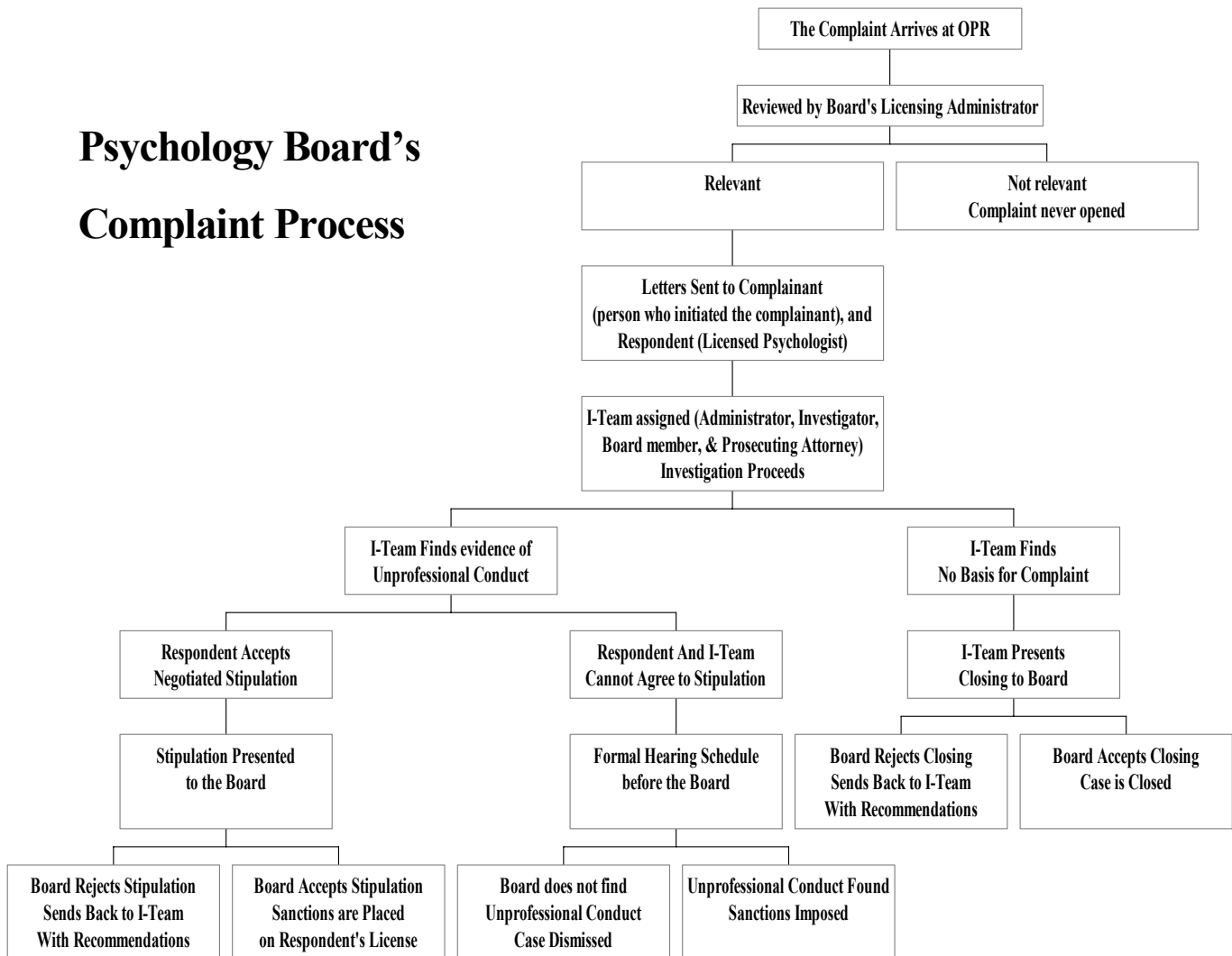
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www.vtprofessionals.org/opr1/psychologists

Psychology Board's Complaint Process



The Complaint Process

Initial Screening

Disciplinary action against a licensed professional is usually the result of a long and careful investigative process. The process is the same for all 39 professions in Vermont licensed by their respective boards. The Psychology Board follows the Office procedure for all aspects of the complaint process. The chain of events starts when an individual files a complaint with the Office of Professional Regulation against the licensed professional. Violations of professional conduct are contained in the Laws and the Rules of the Board as well as Title 3, Chapter 5 which sets the unprofessional conduct standards for all professional and occupations. The law that protects the public to the greatest extent takes precedent.

This is how the complaint process works:

Complaint forms can be requested from the Office of Professional Regulation or downloaded from the Internet (www.vtprofessionals.org). The last two pages contain a "layperson's version," which translates legal terms into everyday language.

The Psychology Board's administrator, Rita Knapp, reviews all complaints within a week to decide if an investigation will be opened. Occasionally the administrator contacts the person (if known) who filed the complaint to clarify or confirm an issue. It helps if the person who files the complaint lists dates, time and place of events, names and addresses of witnesses, names and addresses of other persons who have factual knowledge of the complaint, and documents and records that may support the complaint.

The administrator may screen out the complaint within 15 days of receipt if the grievance a) concerns a profession that is not regulated through the office; b) contains accusations that, if true, would not constitute unprofessional conduct; c) concerns an issue which is not regulated by the profession. Once the decision is made to open an investigation, the administrator will send a letter acknowledging receipt of the complaint to the complainant and practicing psychologist (respondent).

Maxie Ewins, Public Board Member.

The Investigative Team

When a complaint received by the Office of Professional Regulation (OPR) results in an investigation, an investigative team (I-Team) is appointed. The team always includes a licensing administrator, one or more board members/advisors, and an OPR investigator. The I-Team may also have the assistance of a special consultant or one of the prosecuting attorneys employed by OPR.

The I-Team reviews the complaint, identifies witnesses, documents and records pertinent to the complaint, makes contact with witnesses, the respondent, and where possible with the complainant. Investigations should usually be completed within three months of receipt of assignment.

If the I-Team recommends closing a case without disciplinary action, a Report of Concluded Investigation is prepared, signed by all members, and forwarded to the Board. Because the closing report becomes a public document, the name of the licensee and complainant are not included. This protects people from unjustified bad publicity. If the Board accepts the closing report, the complainant and respondent receive copies, and the case is closed. If the Board rejects the report or the recommendation, the case is returned to the I-Team. The team then resumes the investigation, or provides the Board additional information. It may request that an OPR prosecuting attorney review its recommendation. If the I-Team still believes the case should be closed, the closing report is revised and submitted to the Board.

When the investigation results in a recommendation for disciplinary action, the administrator will provide the OPR prosecuting attorney with a draft summary of the team's findings. The attorney will send a draft of charges and stipulation for settlement to the respondent. If there is no response within 10 days, the attorney will file charges within the subsequent five-day period. If, however, the respondent agrees to and signs the stipulation, it is presented to the Board, which can accept or reject the terms. Should the Board not accept the stipulation, it advises the respondent and the prosecuting attorney. If an agreement cannot be reached that satisfies all parties and the Board, then a contested hearing is scheduled.

Kathleen Smith, Public Board Member.

Continuing Education Update

Now that documentation does not have to be submitted for CE credits, unless requested for auditing purposes at the end of each licensing cycle, the number of direct requests for continuing education approval to the Board has become smaller. However, some individuals request approval by the Board, as do specific programs/seminars. In most cases, requests for continuing education credits are reasonable and in line with the Laws and Rules, and are typically approved after Board review. There are certain types of requests, however, that are more difficult to consider and, at times, result in denial of CE credits. There are typically two categories into which these requests fall.

First, those in which it is questionable whether the training opportunity is "primarily psychological in nature." There are many activities that inform the psychologist and enhance one's presence in the clinical setting. However, activities such as meditation retreats, religious weekends, and tao training, as examples, while extremely useful, informative and invigorating, may not meet the criteria as primarily psychological in nature and within the generally accepted field of psychology. Some components of these types of activities may meet the criteria for Category I credits. Written explanations that elaborate on applicability are helpful to the Board in our consideration of the specific activities.

Second, trainings in which the presenter is neither a psychologist nor an individual in an associated field, such as social work, clinical mental health counseling, psychiatry, etc., may not qualify for Category I credits. There may be training opportunities, such as, within the field of medicine, religion, or law, that have applicability to psychologists, especially within specific specialized areas of practice. However, many aspects of these trainings may be only tangential to the field of psychology, and may be presented by those outside of the mental health disciplines. Some of these stimulating and informative activities may not meet the criteria for Category I credits. Submitting an explanation with the request for approval will facilitate Board review of the activity.

Although the June 2001 Board of Psychological Examiners Laws and Rules specifies distinctions between Category I and Category II, there continues to be some confusion concerning home-study programs. As licensees were reminded in the last newsletter, dated November, 2002, home-study courses, an extremely valuable training opportunity, are Category II activities. Similarly, case conferences and peer supervision groups are Category II activities. As a reminder, up to 30 hours of Category II credits may be used within each biennial cycle.

Steve Lewis, Psy.D., Board Member

Changes at O.P.R.

As of July 1st, 2003, the system for assigning prosecutors who represent the Board has changed. Prior to that date, attorneys from the Attorney General's Office were members of the investigative team, and represented the State for Hearings, Stipulations, and Appeals. Since the change, the Office employs its own prosecutors, as full-time staff members, to work with various licensing boards. The prosecutors working with the Board are Edward Adrian, Esq., and Robert Backus, Esq. These attorneys often work within difficult professional situations, and provide very important services in protecting the public.

In 2002, the Office of Professional Regulation convened a group of board and community members to serve as its advisory committee. The committee meets on an as-needed basis to share information, provide feedback, and exchange ideas and concerns.

On June 5, 2002, after opening the first meeting with an overview of the OPR mission, Secretary of State Deborah Markowitz and OPR Director Jessica Porter facilitated a discussion on ways to improve customer service, public protection, and the adjudicative process. A second meeting, held on October 7, 2003, included an update on the OPR prosecutorial team and the Secretary of State's web pages. Discussion revolved around consistency in board procedures and decisions, on-line license renewals, and board training relevant to their quasi-judicial duties.

The Board of Psychological Examiners has membership on this committee and was represented at both meetings.

Kathleen Smith, Public Board Member

ASPPB Update

The Association of State and Provincial Psychology Boards has remained very active during the past year. Since the Annual Meeting of Delegates in October, 2002, Mary Willmuth, Ph.D., of Burlington, served as the ASPPB Past-President. Her term ended at the 2003 Annual Meeting, held in October, 2003, in Scottsdale, AZ

A focus of the Mid-Winter meeting in February, 2003, in San Antonio, TX was a review of the changes in the new APA Ethical Principles, which went into effect in June, 2003. As a note, these new standards are automatically included by the VT Board, as part of our Laws and Rules. In addition, much discussion involved aspects of ethical principles and codes of conduct, and members were challenged to consider whether to revise the ASPPB Code of Conduct, in effect since 1994. Other topics involved the distinctions between competence, proficiency and expertise in the training and licensing of psychologists.

The main focus of the recent ASPPB Annual Meeting was the supervision of trainees prior to their licensure and the consultation with already licensed psychologists. Participants discussed the distinction between supervision and consultation, i.e. the professional status and degrees of responsibility of "supervisees", and the degree of responsibility for the "supervisees' " clinical practice.

ASPPB has been concerned with the significant drop in applicants sitting for the licensure exam (EPPP). Low applicant numbers coincided with the switch to computerized administration of the exam, and has remained at a lower level since.

Finally, the possibility of easier mobility from one jurisdiction (state and/or Canadian province) to another has continued to increase. More jurisdictions continue to approve various mechanisms for easier mobility. To date, 10 jurisdictions recognize the ASPPB Agreement of Reciprocity, and 3 more are in the process toward recognition. Twenty-nine jurisdictions, including Vermont, currently accept the Certificate of Professional Qualifications in Psychology (CPQ), and 17 more have voted to accept it, pending legislative or administrative action. The CPQ is designed to facilitate mobility through its issuance, based on standards of educational preparation, supervised experience and exam performance, along with a minimum of 5 years of practice with no history of disciplinary action. Any licensee with any thought of relocation at any time in the future may be interested in pursuing the CPQ. For more information, visit the ASPPB web site at www.asppb.org, and click on "Mobility."

Steve Lewis, Psy.D., Board Member

Peggy's Corner

This year I am celebrating my 21st year with the Board of Psychological Examiners. During this time, I have seen Board members come and go and have met many wonderful people. I have also made many friends whom I will never forget.

Currently I work for three professional boards: Architects and Pharmacy in addition to Psychology. My work consists of preparing board agendas and minutes, printing and mailing licenses, and responding to telephone inquiries. I probably have spoken to all of you at one time or another, either when you were applying for licensure or calling with questions. In fact, one of the highlights of my work includes meeting and talking with so many of you.

Peggy Atkins, Board Administrator

Legal Counsel

My name is Larry Novins, and I have been a staff attorney with the Office of Professional Regulation since July 2002. I am also counsel to several other licensing boards. Before coming to OPR I was a public defender in Vermont for over 16 years. In addition I serve as an adjunct faculty member at the Vermont Law School, coaching one of the school's competition trial practice teams.

My job as licensing board Council is to advise the Board on legal matters and assist in the handling of unprofessional conduct cases and licensing cases. Whenever the Board conducts a disciplinary hearing, I serve as the "presiding officer." My job is to make sure that evidence is presented in a timely and efficient manner and that the Vermont Rules of Evidence are followed. Since the decisions of the Board are subject to legal review, my job is to make sure that the Board has "crossed the T's and dotted the I's." Once the Board has heard evidence in a disciplinary case, the Board determines what facts have been proved or not proved and whether or not unprofessional conduct has occurred. At that point it is up to me to draft a decision for the Board's signature. It is a collaborative effort where I do my best to put into "legalese" the intent of the Board.

Whenever the Board denies an application for licensure and the applicant appeals, I perform a similar role at a formal hearing.

Often, during the course of the Board's monthly meetings, questions will arise about how a federal or state statute or rule affects the Board or licensees. I try to provide the best answer available. It is sometimes frustrating when there is no clear answer to a question.

When the Board needs to revise its operating rules or the statutes that govern it, I am called upon to do the drafting. If formal rulemaking occurs, it is my job to shepherd the rules through the entire administrative rulemaking process.

In all of its endeavors, the Board makes every attempt to be fair to licensees and to the public. My job is to assist the Board in navigating the sometimes tricky legal paths they must follow.

Larry Novins, Esq., Legal Counsel

Jurisprudence Examination

In 2002 the Board initiated a Jurisprudence Exam, which applicants must pass prior to being granted licensure. Currently licensed psychologists can earn six Category I credits by successfully completing the exam. If you have not already taken advantage of this one-time CE opportunity, we encourage you to download the exam from our web site. As of September 4, 2003, 77 persons have received passing scores on the Jurisprudence Exam. This number represents 82 test takers, 55 of whom passed on their initial submission

and an additional 22 who passed on retakes. Fifty licensed psychologists have received Category I credit.

Kathleen Smith, Public Board Member

Did You Know?

We hope to use this newsletter to communicate encouragement from the Board for sound professional practice of the many well-trained, compassionate and ethical psychologists. In the Board's efforts to provide updated information sometimes reminders can be helpful—so, check out these:

- As of the 2003 legislative session:
 - * Cases involving the practice of psychology without a license will be investigated by OPR and the Board's I-Team prior to a possible referral for prosecution. The Board can impose an administrative penalty not to exceed \$1,000.00
 - * Psychologist's records must be retained for at least five years. Although not required, the Board feels that it is good practice to retain records for at least seven years, and in the case of minor children, it is seven years beyond their 18th birthday.
 - * A psychologist must report his or her conviction of a crime related to the profession or conviction of any felony, to the Office within 30 days of the conviction.
- The new APA Ethical Principles of Psychologists and Code of Conduct became effective on June 1, 2003 and it, along with the ASPPB Code, are part of the rules and laws governing the practice of psychology in Vermont
- The creation of a professional living will, in the event of a psychologist's illness, death and /or unavailability, is a reasonable, responsible and ethical thing to do. A resource for a sample format can be found by contacting Steven Ragusea, Ph.D., A.B.P.P. at email: ragusea@aolcom.
- All of the application materials, including the supervision report forms, are available online. See www.vtprofessionals.org.
- All Board disciplinary decisions since July 2000 are available on line: www.vtprofessionals.org

William L. Cunningham, Ph.D., Board Member

The Board congratulates and welcomes the new psychologists licensed since our last Newsletter in 2002.

Steven C. Atkins, Psy.D. Viviana Drake, M.A. Nancy Ann Field, Ph.D. Laura Anne Flashman, Ph.D. Rex L. Forehand, Ph.D. Laura Elizabeth Gibson, Ph.D. Cynthia Lynn Jenkins, Ph.D.	Heidi Melba Johnson, M.A. Elizabeth A. Keathley, Ph.D. Kathleen B. Kennedy, Ph.D. Ronnie C. Lesser, Ph.D. Susan E. Lillich, Ph.D. Julia S. Molson, Psy.D. Jane Nathan, Ph.D.	Michael Jay Neessen, Psy.D. Colleen Jane O'Brien, Psy.D. Peter T. Rodis, Ph.D. Erica Jan Schoenberg, Ph.D. Samuel H. Shaffer, Ph.D. Todd N. Weinman, Psy.D.
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Board meetings begin at 9:00 a.m. All of the meetings listed are held at the Secretary of State's Office located at 26 Terrace Street, in Montpelier.

[2004 Meeting Schedule](#)

January 9
 February 13
 March 12
 April 9

May 14
 June 11
 July 9
 August 13

September 10
 October 8
 November 12
 December 10

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