



CALIFORNIA DEPARTMENT  
OF CONSUMER AFFAIRS  
BOARD OF PSYCHOLOGY  
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## In this issue . . .

Sunset Review in California .....	2
Informed Consent .....	3
Ten Years After .....	3
BOP Reaffirms Historical Interpretation of Regulation .....	4
Future Regulation Changes .....	4
New Regulations for 1996 .....	5
Overview of Enforcement Activity .	6
Enforcement News—What Are Stipulated Settlements? .....	7
Disciplinary Actions .....	8
April 1996 Written Exam Stats ...	11
June 1996 Oral Exam Stats .....	12
BOP Publications .....	15
Put BOP's Phone System to Work for You .....	15
1997 Board Meeting & Exam Calendar .....	16

## Message from the Chairperson

Bruce W. Ebert, PhD, JD

Once again, I am delighted to present you with another edition of the latest *BOP Update*. There are several articles and information bits in this third edition of the *Update* which should prove to be enlightening, educational, and most importantly, useful to consumers, licensees, registrants, applicants, and students.

In this *BOP Update III*, you will find valuable information on informed consent, sunset review, new regulations, enforcement and examination statistics, and much, much more. I urge you to read all of this information carefully and pay particular attention to all of the "Did You Know?" information boxes throughout the *Update*. Many of the information bits are included in the *Update* because they are actual questions, dilemmas, and problems presented to Board staff from consumers and licensees.

As Chairperson of the Board of Psychology, I encourage all of you to examine ways of improving the professional services you provide to the public. One of the ways to do

this is to clearly present your expectations and requirements to the people that you serve. This can be done through a process of informed consent. Later in this issue I detail the requirements of proper informed consent. I hope all of you will implement some type of written informed consent procedure with your clientele, whether they be individual patients, grouped participants, corporations, academic institutions, governmental entities, or small businesses.

I also encourage you to look for ways to provide pro bono services to the under-served. Given the massive cutbacks in publicly funded mental health care, we have a moral and professional duty to assist in the provision of services to the poor and the growing number of people who suffer from serious mental disorders. Lack of access to quality mental health care is a continuing problem that must be addressed by our profession.

Again, please read all of this information carefully and use it to help ensure that the services you provide are the safest and most effective for the consumers that seek your help. The board encourages you to have copies of the BOP Update available in your office for patient reading and consumer education.

*Bruce W. Ebert*

### Did you know?

#### Access to Client Records

*Did you know that psychologists are now required to provide clients with access to their therapeutic records? This requirement became effective January 1, 1995, and can be found in Sections 123100-123149 (formerly entitled 1795-1795.28), Health and Safety Code. The law permits any adult patient of a health care provider; any minor patient authorized by law to consent to medical treatment, and any patient representative to inspect and/or receive a copy of his or her records.*

*If the health care provider determines there is a substantial risk of significant adverse or detrimental consequences to a patient in seeing or receiving a copy of the mental health records, the provider may decline to permit inspection subject to conditions outlined in Section 123115(b)(1-4), Health and Safety Code. Records may not be withheld for an unpaid bill for health care services. Willful violation of this chapter constitutes unprofessional conduct and/or an infraction punishable by a fine of not more than one hundred dollars (\$100). Consult these sections of law for exceptions, exclusions, and additional requirements.*

### BOP Executive Officer Presented with International Award

Bruce W. Ebert, PhD, JD

The Board of Psychology is extremely proud to announce that on October 4, 1996, our executive officer, Thomas O'Connor, was named as the 1996 recipient of the prestigious Roger C. Smith Award in recognition of significant contributions to the regulation of the profession of psychology. This international award was presented to Tom at the annual meeting of the Association of State and Provincial Psychology Boards (ASPPB) on October 4 in Victoria, British Columbia.

ASPPB bestows the Roger C. Smith Award annually and has done so since 1981 to recognize past and current contributions to licensing and certification efforts in the recipient's jurisdiction. Tom is the first non-psychologist to ever receive this award. The award is named for the late Roger C. Smith of Oklahoma, who served as ASPPB President in 1974-75.



## Sunset Review in California

In 1994, Senator Dan McCorquodale was successful with his SB 2036 which laid the groundwork for a Sunset Review process for all of the regulatory boards within the Department of Consumer Affairs. The first round of Sunset Review hearings and findings occurred in the fall of 1995, with final recommendations publicized early in 1996. This first round included such boards as the Board of Barbering and Cosmetology, Board of Landscape Architects, Geology Board, Court Reporters Board, and the Board of Accountancy. Coming out of this first round we observed the Court Reporters Board and the Board of Landscape Architects being sunsetted with a transition to private certification. The Board of Barbering and Cosmetology was recommended for sunset, with the licensing program going under the purview of the Department of Consumer Affairs. The Board of Accountancy and the Board of Registration for Geologists and Geophysicists became title acts, rather than licensing acts.

And so the foundation is laid. In the current year, another group of boards will go before the Legislature with their sunset reports. Included in this second round will be the Dental Board, the Nursing Board, and the Pharmacy Board. The Board of Psychology, as well as the Medical Board of California, will come before the Sunset Review Committee in the fall of 1997.

This Sunset Review process will occur every four years for all boards in the Department. The review and evaluation will be conducted by a six-member legislative committee composed of three members appointed by the Senate Rules Committee and three appointed by the Speaker of the Assembly. This committee, the Joint Legislative Sunset Review Committee, will review all of the sunset reports submitted by all of the regulatory boards. The committee also will conduct public hearings concerning each board. Once the hearings are completed, the committee will then submit its recommendation (either terminate, continue with legislative changes, or reestablish) to the full Legislature. If the Legislature does not subsequently pass legislation to keep the boards in existence, the boards and their regulatory authority will “sunset”

out of existence. Legislation to extend or delete the repeal date for the Board of Psychology must be submitted during the 1998 Legislative session.

### Report

First, however, the extensive report which the Board of Psychology and its staff must prepare is due to the Sunset Review Committee on July 1, 1997. It is anticipated that the report will be required to contain at least the following information:

1. A comprehensive statement of the Board’s mission, goals, objectives, and legal jurisdiction in protecting the health, safety, and welfare of the public.
2. The Board’s enforcement priorities, complaint and enforcement data, budget expenditures with average and median costs per case, and case aging data specific to post- and pre-accusation cases at the Office of the Attorney General.
3. The Board’s fund conditions, sources of revenues, and expenditure categories for the last four fiscal years by program component.

4. The Board’s description of its licensing process, including the time and costs required to implement and administer its licensing examinations, relevancy and validity of the licensing examinations, and areas of examinations.
5. Legislative efforts, budget change proposals, and other initiatives the Board has taken to improve its legislative mandate.

The Joint Legislative Sunset Review Committee will evaluate the report and determine whether the Board of Psychology has demonstrated a public need for its continued existence and for the degree of regulation the Board implements based on the following possible examples:

1. Whether regulation by the Board is necessary to protect the public health, safety, and welfare.
2. Whether the basis of facts that necessitated the initial licensing of the practice of psychology have changed since the inception of the Certification Act in 1958.
3. Whether other conditions have arisen that would warrant increased, decreased, or the same degree of regulation.
4. If regulation of the profession is necessary, whether existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether the Board rules enhance the public interest and are within the scope of legislative intent.
5. Whether the Board operates and enforces its regulatory responsibilities in the public interest and whether its regulatory mission is impeded or enhanced by existing statutes, regulations, policies, practices, or any other circumstances, including budgetary, resource, and personnel matters.
6. Whether an analysis of Board operations indicates that the Board performs its statutory duties efficiently and effectively.

### Did you know?

#### HMO Consumer Complaint Hotline

*In the interest of consumer protection, the Board of Psychology enthusiastically supports the Consumer Complaint Hotline of the Department of Corporations. The Board encourages all licensees to post the hotline number in their offices so that HMO patients are aware of the recourse they may have in dealing with their managed care insurance carrier. The hotline number is:*

**1-800-400-0815**

*A formal complaint may be filed with the Department of Corporations after a patient has attempted all available remedies within the HMO grievance system. HMO personnel who are licensed psychologists must adhere to all ethical principles applicable to the profession, as well as all laws relating to psychology licensure.*

(Continued on page 10)



## Informed Consent

Bruce W. Ebert, PhD, JD

**E**very psychologist has a duty to obtain informed consent from each patient or client to whom he or she provides services in the professional capacity. Informed consent has three major elements: information, competence, and voluntariness. A prospective client has the right to receive enough information to make an informed choice whether to seek services with a particular professional. The client must be legally competent to truly make an informed choice about the services in question. Finally, there must be volitional choice to proceed with services; that is, the client must voluntarily agree to participate in the proposed procedure. A fourth requirement, that of adequate documentation, is required by the 1992 APA Ethical Principles of Psychologists and Code of Conduct (also see Canter, Bennett, Jones, and Nagy [1994]. *Ethics for Psychologists: A Commentary on the APA Code*. American Psychological Association).

The legal beginnings of informed consent come from the case of *Schloendorff v. Society of New York Hospitals* (1914) (211 N.Y. 125, 105 N.E. 92). The court in *Schloendorff* concluded “every competent person has the right to determine what will happen to their own body.” The landmark case in California concerning informed consent came in 1972 and is still applicable today. In *Cobbs v. Grant* (1972) (8 Cal.3d 229, 104 Cal. Rptr. 505), the court concluded that a professional must disclose “all information relevant to a meaningful decisional process” (pg. 513). The court went on to assert, “We hold as an integral part of the physician’s overall obligation to the patient there is a duty of presenting reasonable choices with respect to the proposed therapy and of the dangers inherently and potentially involved in each” (pg. 514). In addition, psychiatric (AMA Principle 2-6), marriage, family and child therapy (CAMFT Code at Principle 7), social worker (NASW Code at Principle II Section 6), and psychologists’ ethics codes all have provisions requiring some type of

### Did you know?

*This BOP Update is being mailed to all psychological assistants as well as all licensed psychologists. Additionally, the Board mails the BOP Update to all professional and accredited schools with psychology programs in California and to state and local psychological associations.*

informed consent procedure. A client has the right to know any and all relevant facts that may substantially influence the decision to obtain services from a professional. The most comprehensive set of informed consent rules comes from the Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association (1992) (47 American Psychologists 1597-1611). Standard 4.02 requires that psychologists obtain informed consent from therapy clients, while Standard 5.01 requires that the limits of confi-

*(Continued on page 13)*

## Ten Years After

Thomas O'Connor

**A**pril 13, 1997 will mark my tenth year as executive officer of the Board of Psychology. Thinking back to those early days of what has turned out to be my adventure of a lifetime, my memories remind me that we have indeed come a long way. Ten years ago at a hypothetical gathering of psychologists, you can rest assured that not one licensee would have been conversing about how active the then Psychology Examining Committee was. You can rest assured that not one licensee would have been expressing concern about the Psychology Examining Committee’s Enforcement Program, or whether the committee had validated its examinations, nor would they be saying a word about the committee’s latest newsletter. In reality, no one was talking about any of these activities ten years ago

because they simply were not occurring. Ten years ago you would have been lucky to come upon a psychologist who would have been able to answer the question, “What is the Psychology Examining Committee?” Ten years has brought about a revolution in the management of occupational regulation in California, and the regulation of the profession of psychology has been at the forefront of this movement. The Psychology Examining Committee is gone, and in its place is the forever evolving Board of Psychology.

As we enter a new century, no longer can any regulatory board utilize unclear and unnecessary regulations to establish barriers to the entry to a profession. No longer can a regulatory board use unvalidated, indefensible licensing examinations to deny qualified applicants licensure while letting the unqualified and possibly dangerous applicants slide

through the process. No longer can a regulatory board be nonresponsive to consumer complaints, while passing policies to benefit the profession. Today’s Board of Psychology, love it or hate it, has grown into an internationally respected model of what occupational regulation is all about, and the consumer is more protected because of it.

Ten years ago, the then Psychology Examining Committee was not really doing much of anything which caused much notice. Again, the “committee” had yet to validate either its written or oral examinations despite class action suits against both exams. The “committee” had no budget to effectively protect the public by having an effective and efficient enforcement program. I remember in my first days coming across unanswered correspondence from psychological associations across

*(Continued on page 6)*



## Supervised Professional Experience

# BOP Reaffirms Historical Interpretation of Regulation

Section 1387(p) of the Code of Regulations relating to the practice of psychology states, "Supervised professional experience shall be obtained while functioning as a psychologist in an exempt setting, as a psychological assistant . . . or otherwise pursuant to Section 1387(a), and **not while functioning under any other professional license or in any other professional capacity**. This shall not be construed to restrict independent practice under any other professional license or in any other professional capacity; however, such practice shall not be counted toward the required hours of experience."

The confusion regarding this regulation has typically come from multidisciplinary settings such as Kaiser Hospitals where, quite often, individuals who hold a license as a clinical social worker are hired into positions which require such a license and which are titled by the license title. Subsequently, these individuals working in the "social worker" position by virtue of having a license as a clinical social worker desire to accrue hours of supervised professional experience to apply toward obtaining a psychologist license. Quite often these individuals simply obtain a

psychological assistant registration with the Board of Psychology (BOP) and continue working in the position titled "social worker," a practice which clearly is not in compliance with Section 1387(p).

Because of the numbers of people in training in settings such as Kaiser Hospitals, the BOP discussed the issues raised by the historical literal interpretation of Section 1387(p). The BOP, during and after discussions, strongly asserts that the issue here is clearly a consumer one. While blending position titles may be convenient for employers and trainees, this practice is a disservice to consumers, who may be confused regarding the credentials and title of the mental health practitioner with whom they consult. Therefore, the BOP adopted the following Policy Statement dated March 9, 1996 which reaffirms the historical BOP interpretation of Section 1387(p):

"Any hours of supervised professional experience gained by individuals in any position which requires another professional license or requires the individual to work in another professional capacity, even though that individual registers with

the Board as a psychological assistant, will not count toward the hours of supervised professional experience required for psychology licensure. When a mental health trainee functions as a psychological assistant while simultaneously functioning in some other professional capacity within the same institution, the professional identity of the mental health trainee becomes blurred and thereby presents potential confusion for the consumer."

### Did you know?

*If you are preparing to sit for the Examination for Professional Practice in Psychology (EPPP), did you know that 350 items from previous examinations (with answers) are available from the Association of State and Provincial Psychology Boards (ASPPB)? The included exam items span the dimensions of the content outline and are intended to give candidates for licensure a sense of what to expect from the EPPP. For information on cost and how to order, write to ASPPB, P.O. Box 4389, Montgomery, AL 36103.*

## Future Regulation Changes

At the time the *BOP Update III* was being drafted, three regulation packages were in progress, with a hearing date set for November 16, 1996 and anticipated effective dates to be in early 1997.

The first regulation package was developed to comply with newly enacted legislation (SB 523-Kopp, Stats. 1995, Ch. 938) which requires all disciplinary

guidelines of all boards to be in regulatory form by reference. This package simply makes reference to and identifies the existing disciplinary guidelines set forth and used by the Board of Psychology.

The second regulation package is needed to increase the examination fees to ensure that the fees cover the cost of purchasing, developing, administering, and scoring the written and oral examination. The proposals set the written examination fee at \$332 and the oral examination fee at \$129. The increase in the exam fees will ensure that the Board has sufficient funds to administer its examinations.

The third and final package will make several technical amendments to existing regulations. Additionally, this package will make some substantive amendments and additions. First, it will clarify and simplify the application process for those

applicants licensed in another state and/or who are ABPP Diplomates, and for those who let their license lapse and must reapply. The proposed regulations will allow such applicants to take a laws-only version of the oral examination and will allow for easy waiver of the written examination. Second, this latter regulation package will enhance the existing regulations pertaining to Rules of Professional Conduct by adding a direct reference to the APA Code of Ethics. Finally, these regulations will clarify transfer of a psychological assistant to another supervisor in the contract clinic or corporation setting and will address supervision coverage for a psychological assistant when the supervisor is ill or goes on vacation.

We will report in *BOP Update IV* on the fate of the above regulation proposals.

### Did you know?

*The BOP joined thirty-six other state and provincial boards by adopting the recommended fixed passpoint of 140 for the national Examination for Professional Practice in Psychology.*



# New Regulations for 1996

The following regulation changes were approved and adopted in 1996.

## Citations and Fines

On April 26, 1996, the Office of Administrative Law approved regulations adopted by the Board of Psychology to establish an administrative "citation and fine" program. The regulations authorize the Board to issue citations for any violation of law or regulations which would be grounds for discipline by the Board. In addition, the new regulations specify the format for the citations, the range of fines for a violation of specified provisions, the factors to be considered in assessing the amount of an administrative fine, the consequences of a failure to comply with the order of abatement, and the method by which citations may be contested.

Regarding the issue of unlicensed practice, the new regulations authorize the issuance of citations and fines for unlicensed practice, as well as orders of abatement. This requires the unlicensed person to stop any unlawful advertising and to notify telephone companies furnishing services to the cited person to disconnect telephone service furnished to any telephone number contained in the unlawful advertising. Further, subsequent calls to that number will not be referred by the telephone company to any new number obtained by the person.

Clearly, the new citation and fine program will be implemented only on those minor cases which do not warrant referral to the Office of the Attorney General for serious disciplinary action. The program will be administered as efficiently as possible with existing staff resources.

## Continuing Education

The BOP implemented regulatory changes to clarify the continuing education (CE) program and make it more efficient. The changes came about through observation as we have moved through the first year of this fledgling program, as well as through input from licensees and providers.

The regulatory changes, which were approved by the Office of Administrative

Law on April 9, 1996, represent amendments of and additions to the existing BOP continuing education regulations. Highlights of these regulatory changes include:

1. Section 1397.61 was revised to clarify the content requirements of the CE course in the detection and treatment of alcohol and other chemical dependency that must be taken by all psychologists. It also makes clear that this is a one-time only requirement that must be completed prior to the first license renewal after January 1, 1997.
2. Section 1397.61(d) was amended to eliminate the provision granting credit for CE courses only if the course is taken at the APA Convention or outside the state. The new amended regulations allow CE credit for taking **any** APA course sponsored by the American Psychological Association Continuing Education Committee.
3. Section 1397.61(e) has been added to allow CE credit for courses sponsored by the Academies of the Specialty Boards of the American Board of Professional Psychology (ABPP).
4. Section 1397.61(f) was added to allow credit for courses in hospital-based inservice settings, such as "grand rounds."
5. Section 1397.63(b) was amended to allow CE credit for licensees who serve the BOP as selected participants in any written or oral examination development function, and for selected Board experts who attend Board-sponsored Expert Training Seminars.
6. Section 1397.64(a) was amended to more specifically set forth the responsibilities of the Board-recognized accreditation agency. Among other things, the amendments require the accreditation agency to provide a list of providers and approved courses to any licensee who requests it, and to respond to

## Did you know?

The Board has three new brochures available at no charge.

- *All About the California Board of Psychology* covers the history and purpose of the Board and summarizes the complaint handling process.
- *Do You Have a Complaint* details how the Board handles complaints and includes a Consumer Complaint Form.
- *Everybody Has Problems* describes what psychologists should and should NOT do and explains the roles and restrictions of overlapping professions such as psychiatrists, counselors, and the clergy.

complaints and inquiries regarding CE. The accreditation agency must provide such service to all licensees without discrimination.

The continuing education program for psychologists is still in its infancy, and as we learn how to make it more efficient while maintaining high standards of accountability, we foresee additional periodic amendments and additions to the regulations which drive the program.

## Examinations

The BOP made several administrative amendments to its regulations regarding examination procedures, including:

1. Section 1388(c) was amended to allow for appropriate administrative action if an applicant cheats on or subverts a licensing examination.
2. Sections 1388.5(b) and (c) were amended to state that those who take the oral examination shall be provided with performance feedback and to reduce the time oral exam tapes must be kept by the BOP from two years to one year.
3. Section 1389 was amended to reduce the period in which an oral examinee who fails the exam can request reconsideration from sixty to thirty days and to state that all such requests must be based on alleged procedural errors.



## Ten Years After

(Continued from page 3)

the state demanding that the “committee” fulfill its mandate and take administrative action against the many psychologists who were not only violating the ethics of the profession but also violating the laws of the state. I began responding to those letters while developing an enforcement budget for the Board, while bringing in outside experts to validate the examinations, and while attending to everything else that was yelling for attention. Nothing changes quickly in government, but what was given to me to administer as the Psychology Examining Committee ten years ago has certainly been reinvented into quite an effective and comparatively efficient Board of Psychology. And the Board continues to evolve as we prepare for a new century.

The Board of Psychology has changed drastically for the good, and change can be, in a sense, humorously ironic, as well as be the cause for much notice. Back before the Board had established that its examinations are valid and occupationally relevant, a number of applicants who could not pass the examinations filed class action suits against the Board. The Board took all efforts to validate the exams, thereby making any such class action claims a moot issue by firmly establishing that the exams are legally defensible. Now some candidates who fail still blame the Board. It is unfortunate that the extensive training required to qualify one to take the psychology licensing exams has not better prepared such candidates to be able to accept responsibility for such a setback and to be able to take corrective actions to improve their test performance in the future. If unsuccessful examination candidates would expend just a portion of the energy on preparing for the exam that they expend on appealing the failed exams, I am confident that the pass rate for both the written and the oral examinations would significantly increase. The examinations are professionally developed and legally defensible. Candidates who fail should recognize that public protection may well demand further development of their professional knowledge, skills and abilities. The

(Continued on page 10)

## Overview of Enforcement Activity 1991-96

FISCAL YEAR	91/92	92/93	93/94	94/95	95/96
<b>CASES OPENED</b>					
Complaints Received	561	621	561	574	584
Complaints Closed <sup>1</sup>	499	519	576	612	594
Investigations Opened	202	198	169	163	130
Cases Sent to AG/DA	40	72	67	55	45
<b>FILINGS</b>					
Accusations Filed	23	50	45	31	26
Statements of Issues Filed	3	4	6	9	5
Petitions for Penalty Relief Filed	2	8	5	6	2
Temporary Restraining Orders	0	0	0	0	0
Petitions to Compel Psych Exams	1	5	2	0	1
Interim Suspension Orders	-	5	1	0	1
<b>WITHDRAWALS/DISMISSALS</b>					
Accusations Withdrawn	2	3	6	6	2
Accusations Dismissed	1	4	2	0	0
Statements of Issues Withdrawn	1	0	0	3	0
Statements of Issues Dismissed	0	0	0	0	0
<b>DECISIONS (PENALTY)</b>					
ISO/TRO Ordered	-	5	1	0	1
Revoked	8	14	13	13	8
Revoked, Stayed, Probation	7	5	8	11	8
Revoked, Stayed, Probation, Suspension	5	6	5	1	2
Voluntary Surrender	5	5	5	8	4
Two-Step Agreement	-	-	-	-	2
Probationary Certificate	1	0	1	6	3
Petitions for Penalty Relief Denied	1	7	2	5	2
Petitions for Penalty Relief Granted	0	0	0	4	0
Statements of Issue - License Denied	4	3	2	4	1
Statements of Issue - License Granted	1	0	0	1	0
Orders Compelling Psych Exam	1	5	1	0	1
Reprimand	-	1	0	2	1
Reconsideration Denied	-	3	0	1	0
Other	-	-	1	3	2
<b>TOTAL</b>	33	54	39	59	34
<b>DECISIONS (VIOLATION TYPE)</b>					
Gross Negligence/Incompetence	4	7	10	13	13
Improper Supervision	-	-	-	2	2
Violation of Drug Laws	1	0	0	0	0
Self-Abuse of Drugs or Alcohol	2	1	0	0	0
Dishonesty/Fraud	2	1	1	0	0
Mental Illness	1	4	1	1	3
Aiding Unlicensed Practice	0	0	0	0	0
General Unprofessional Conduct	0	1	1	3	3
Probation Violation	1	1	2	1	1
Sexual Misconduct	16	17	12	19	5
Conviction of a Crime	1	6	4	7	2
Discipline by Another State Board	2	3	2	1	2
Voluntary Surrender	0	1	0	0	0
Interpersonal Violation	0	0	2	0	0
Other	3	0	2	2	1

<sup>1</sup>Complaints closed with no formal administrative action. Can include complaints from previous years.



Introducing . . .

## Enforcement News

**I**n addition to the summaries of disciplinary actions normally printed in the BOP Update, future issues now will include this new column to highlight various aspects of the Board's enforcement program. The Board hopes this column will dispel some

unfortunate myths and misperceptions, as well as provide some useful information on the administrative disciplinary process. Your questions and comments are encouraged and should be sent to the Board's enforcement program in Sacramento so that future issues can

address your concerns.

This first article is submitted by the Board's Enforcement Coordinator, Suzanne Taylor. Ms. Taylor has served the Board in this capacity for four years after nine years of previous similar experience with the Medical Board of California.

## What Are Stipulated Settlements?

by Suzanne Taylor

The Board of Psychology receives over 600 complaints each year for alleged misconduct; so according to the law of averages, each licensee should be prepared to respond to at least one complaint during his/her career. While this is certainly an upsetting experience, it is important to note that two-thirds of complaints are closed following appropriate responses from licensees. Of the 200 remaining complaints that are referred to investigation, less than one-third result in formal charges filed.

But what happens, you might ask, if the worst scenario materializes in the form of an Accusation filed against you? Will it cost you tens of thousands of dollars to defend yourself? Will it take years to resolve? First, let me explain that an Accusation is a formal legal document that sets forth the reason(s) your license is subject to discipline. Such a document always follows a thorough investigation and concurrence from the Office of the Attorney General that there is enough evidence to actually prove the charges at an administrative hearing. While these formal hearings are both time-consuming and expensive, more than 80 percent of Accusations are resolved through less expensive and more time-efficient mutual agreements called "stipulations" or "stipulated settlements."

Stipulations are legal documents that typically contain admissions by the licensee to one or more violations of law and set forth a proposal for appropriate discipline. Appropriate discipline is based on the board's *Disciplinary Guidelines* which outline both minimum and maxi-

imum penalties for every violation of the Psychology Licensing Act. Copies of the *Disciplinary Guidelines* are available upon your written request to the Board's office in Sacramento. Discipline comes in many forms and, depending on the admission(s) of misconduct, may include probation with terms and conditions, suspension, surrender of license, or even revocation. Minor violations are settled less stringently by way of reprimands, educational coursework or conferences, or perhaps an oral examination.

Stipulations are negotiated between the licensee or his/her attorney and the Board's legal representative from the Office of the Attorney General. Once a stipulation is agreed upon and signed by the licensee and the Board's legal representative, the document is voted upon by the Board members. The Board votes to either adopt the stipulation, reject it, or offer a counterproposal. If the licensee does not agree with the counterproposal, s/he has the right to request a formal hearing before an Administrative Law Judge.

Licensees who choose stipulated agreements over formal hearings waive their rights to further due process procedures and appeals and are legally bound by the terms of the penalty order, but in so doing, save time and money and often end up with the same penalty order that would result after a full administrative hearing.

In summary, if you should find yourself in the unenviable position of being served with an Accusation, it would be

wise to carefully read all of the forms and instructions that are enclosed with the Accusation and to immediately retain legal counsel, although this is your personal choice and not mandatory. You should then become familiar with the Board's *Disciplinary Guidelines* to determine the probable penalty in your case and consider the advantages of a stipulated settlement.

### Did you know?

*Section 2936 of the California Business and Professions Code states that to facilitate consumers in receiving appropriate psychological services, all licensees and registrants shall be required to post, in a conspicuous location, a notice which reads as follows:*

**NOTICE:** THE DEPARTMENT OF CONSUMER AFFAIRS RECEIVES QUESTIONS AND COMPLAINTS REGARDING THE PRACTICE OF PSYCHOLOGY. IF YOU HAVE ANY QUESTIONS OR COMPLAINTS, YOU MAY CONTACT THIS DEPARTMENT BY CALLING (800) 633-2322 OR (916) 263-2699 OR BY WRITING TO THE FOLLOWING ADDRESS:

BOARD OF PSYCHOLOGY  
1422 HOWE AVENUE, STE 22  
SACRAMENTO CA 95825



# Disciplinary Actions

SEPTEMBER 1, 1995-SEPTEMBER 30, 1996

The following decisions become operative on the effective date except in situations where the licensee obtains a court-ordered stay. This may occur after the publication of this newsletter. For updated information on stay orders and appeals, you may telephone (916) 263-0321 and ask for the Board's Enforcement Technician. To order copies of these decisions and other documents, send your written request, including the name and license number of the licensee, to the attention of the Enforcement Program at the Board's offices in Sacramento.

**Berger, Anna O., PhD (PSY 10551)  
Berkeley, CA**

Allowed a multiple-role relationship to exist which presented a conflict of interest with the primary psychotherapeutic relationship. Stipulated Decision effective September 12, 1996. 90-day suspension, stayed, 2 years' probation.

**Bowers, Kenneth W., PhD (PSY 6223)  
Oxnard, CA**

B&P Code §2960(a)(n). Conviction for fraudulently billing Medi-Cal for psychological testing and services he did not provide. Stipulated Decision effective August 2, 1996. Revoked, stayed, 5 years' probation.

**Boxley, Russell L., PhD (PSY 5385)  
Pasadena, CA**

B&P Code §2960. Unprofessional conduct for obtaining prescriptions for dangerous drugs without following accepted procedures. Stipulated Decision effective July 25, 1996. Revoked, stayed, 3 years' probation.

**Cheney, John, PhD (PSY 6928)  
Redlands, CA**

Mental Illness. Interim Suspension Order issued December 22, 1995 - no practice.

**Cochagne-Olsen, Jenifer, PhD (PSY 11823)  
Encino, CA**

B&P Code §2960(a)(b)(j)(n). Conviction for filing fraudulent claims to the Victims of Crimes Program and the Board of Control for psychotherapy services she did not provide. Solicitation of patients to buy and market face creams and vitamins, in which she has an interest, constitutes exploitation and an extreme departure from the standard of care and practice for psychologists. Decision effective September 18, 1995. Revoked.

**Condy, Sylvia Robbins, PhD (PSY 10005)  
Anchorage, CA**

B&P Code §2960(m). Discipline by Alaska Board for billing a health insurance carrier for extended consultation when in fact the billings represented time spent in presenting expert witness testimony at client's criminal trial. Stipulated Decision effective December 18, 1995. Revoked, stayed, 5 years' probation.

**Coombs, Neil Rodger, PhD  
Long Beach, CA**

B&P Code §2960(a). Convictions in 1955 and 1963 for oral copulation with minors and in 1971 for contributing to the delinquency of a minor. Decision effective July 7, 1996. Application for licensure denied.

**Crausman, Burt, PhD (PSY 1533)  
Los Angeles, CA**

B&P Code §2960(j). Gross negligence in the treatment of 2 patients. Decision effective September 15, 1995. Revoked, stayed, 5 years' probation.

**Curiale, Angela, PhD (PSY 14491)  
Sacramento, CA**

B&P Code §§2903, 2960(k), 2960(n). Fraud, dishonesty, and unlicensed practice. Decision effective May 24, 1995. License issued when prerequisites are met, license will be revoked, stayed, 5 years' probation. (Prerequisites met 2/28/96, license issued, probation begins.)

**Dickinson, Richard, PhD (PSY 6420)  
Huntington Beach, CA**

B&P Code §2960(j). Gross negligence in the supervision of one intern and in the treatment of one patient. Decision effective April 25, 1996. Revocation, stayed, 5 years' probation with first 6 months being an actual suspension.

**Dishon, Michael, PhD (PSY 7689)  
Century City, CA**

No admissions to charges of failure to adequately supervise a psychological assistant which led to the grossly negligent treatment of

one patient. Stipulated Decision effective June 20, 1996. Revoked, stayed, 3 years' probation.

**Dorin, Paul F., PhD Torrance, CA**

Gross negligence while a psychological assistant by using channelling, exorcism, guided imagery, as well as engaging in dual relationship and breach of confidentiality. Functioned outside area of training, education, & experience. Decision effective May 22, 1996. Application for licensure denied.

**Duggan, Leo Mathew III, PhD  
(PSY 11407) Seal Beach, CA**

No admissions to charge of insurance fraud. Respondent must submit to an educational review; once completed, accusation will be withdrawn. Educational review completed. Stipulated Decision effective September 11, 1996. Accusation withdrawn.

**Edson, Winfield Doyle, PhD (PSY 3350)  
Bakersfield, CA**

B&P Code §2960(i). Revocation decision originally effective April 22, 1993 overturned by Superior Court September 19, 1994. This Stipulation settles further appeal. Admission to Unprofessional Conduct only. Stipulated Decision effective April 27, 1996. 60-day suspension, stayed, 2 years' probation.

**Firestone, Richard W., PhD (PSY 2356)  
New York, NY**

Stipulated Decision effective April 26, 1996. Voluntary surrender.

**Forti, Lewis A., PhD (PSY 11172)  
Denair, CA**

B&P Code §§729, 2960(o). Engaged in sexual relations with one patient while patient was in therapy. Decision effective September 8, 1996. Revoked.

**Geffen, Michael, PhD (PSY 5707)  
Incline Village, NV**

Stipulated Decision effective September 18, 1996. Voluntary surrender.

**Gigl, John L., PhD (PSY 4022)  
Susanville, CA**

B&P Code §§2960, 820. Gross negligence/dishonesty, corrupt or fraudulent acts. Decision effective December 29, 1995. Respondent must submit to a psychological evaluation. If passed, accusation will be withdrawn. If failed, revocation, stayed, 3 years' probation. Respondent failed psychological evaluation, therefore license is revoked, stayed, 3 years' probation with actual suspension until proof of mental competence is approved by the Board of Psychology.

## Did you know?

*The law has changed regarding the cancellation date of delinquent licenses. Any license which expired and became delinquent any time after March 30, 1994 will be automatically cancelled three years from that expiration date, unless renewal and delinquent fees are paid prior to that time. Persons whose licenses become cancelled must reapply for licensure and meet all current requirements.*





**Gilbert, Linda M., PhD (PSY 11180)  
Riverside, CA**

Stipulated Decision effective September 5, 1995. Voluntary surrender.

**Goldman, Sandra B., PhD (PSB 23096)  
Pleasanton, CA**

Sexual misconduct with a patient in 1989. Decision effective September 19, 1995. Probationary psychological assistant registration granted, 5 years' probation.

**Greene, Robert S., PhD (PSY 12237)  
San Francisco, CA**

Admits he exercised questionable judgment and used abusive, threatening, and indecent language in his communication and professional dealings with an evaluator. Stipulated Decision effective August 16, 1996. Revoked, stayed, 5 years' probation.

**Israely, Yehuda, PhD (PSB 20435)  
Albany, CA**

Misrepresentation of license status. Functioned outside scope of education, training, and experience. Gross negligence in treatment of a patient and repeated negligent acts. Stipulated Decision effective September 19, 1995. Revoked.

**Kent, Cheryl, PhD (PSY 4987)  
Los Angeles, CA**

B&P Code §2960(P). Functioned outside field of competence in the care of single patient in

1990 and 1991. Stipulated Decision effective September 5, 1995. Revoked, stayed, 3 years' probation.

**Lieberman, Frank, PhD (PSY 4624)  
Castro Valley, CA**

B&P Code §2960. Admits to unprofessional conduct, taking a 7-year-old patient out in his car to run personal errands, leaving child unattended. Stipulated Decision effective August 9, 1996. Revoked, stayed, 3 years' probation.

**Lieberwitz, Michael J., PhD (PSY 8022)  
Half Moon Bay, CA**

B&P Code §2960(j). Gross negligence in inappropriate dual relationship with a patient in 1992. Stipulated Decision effective September 1, 1995. Revoked, stayed, 7 years' probation.

**May, Gregory Dale, PhD (PSY 5816)  
Loomis, CA**

B&P Code §§2963, 2960(n). Convicted of a crime substantially related to psychology and committed dishonest, corrupt, or fraudulent acts and discipline taken by another board. Default Decision effective September 18, 1996. Revoked.

**Newman, Robert C., PhD (PSY 5125)  
Redlands, CA**

B&P Code §2960(j)(o). Gross negligence and sexual misconduct with one patient and establishing an ongoing social relationship with another patient. Decision effective September 18, 1995. Revoked.

**Nolley, David A., PhD (PSY 10531)  
San Jose, CA**

B&P Code §2960(a)(k)(n). Convicted of Medi-Cal Fraud in 1993. Decision effective June 19, 1996. Revoked, stayed, 3 years' probation.

**Randolph, Elizabeth Marie, PhD (PSY 13339)  
Cotati, CA**

B&P Code §2960(a). 1994 criminal conviction for counseling a patient to commit an act of child abuse in order to obtain funds for mental health treatment. Decision effective July 6, 1996. Revoked.

**Rodriguez, Paul, PhD (PSY 5867)  
Los Osos, CA**

B&P Code §2960(a). Convicted of fondling a minor in the state of Virginia in 1993. Decision effective April 25, 1996. Revoked.

**Smith, Wilburn, PhD (PSY 1015)  
Sun City, CA**

Stipulated Decision effective December 7, 1995. Voluntary surrender.

**Smith, Cameron Hewes, PhD (PSY 6204)  
La Jolla, CA**

Stipulated Decision effective November 22, 1995. Voluntary surrender.

## Explanation of Disciplinary Language

**Default decision**—*Licensee fails to respond to Accusation by filing a Notice of Defense or fails to appear at administrative hearing.*

**Effective decision date**—*The date the disciplinary decision goes into operation.*

**Gross negligence**—*An extreme departure from the standard of practice.*

**License surrender**—*Resignation under a cloud. While charges are still pending, the licensee turns in the license—subject to acceptance by the board. The right to practice is ended.*

**Revoked**—*The license is cancelled, voided, annulled, rescinded. The right to practice is ended.*

**Revoked, stayed, probation**—*“Stayed” means the revocation is postponed, put off. Professional practice may continue so long as the licensee complies with specific probationary terms and conditions. Violation of probation may result in the revocation that was postponed.*

**Suspension**—*The licensee is prohibited from practicing for a specific period.*

**Sweeney, Jane M., PhD (PSY 11566)  
Solano Beach, CA**

B&P Code §§2960, 728(a)(b). Unprofessional conduct in failing to provide a patient, who previously had a sexual relationship with another therapist, the booklet entitled: *Professional Therapy Never Includes Sex*. Stipulated Decision effective September 19, 1996. Revoked, stayed, 3 years' probation.

**Ward, Jacqueline, PhD (PSY 14485)  
San Francisco, CA**

Neither admits or denies charges of misrepresentation of licensure status as a psychological assistant and failure to refer patient to another therapist. Stipulated Decision effective December 21, 1995. 2-year probationary psychologist license issued.

### Did you know?

*Hey, psychological assistants, did you know that if your supervisor's license becomes delinquent at any time during your registration period, none of the supervised professional experience hours you may have earned during that delinquency will be counted toward meeting licensure requirements? The Board of Psychology strongly recommends that you (1) know the expiration date of your supervisor's license and remind him/her to renew the license well before expiration and (2) check with your supervisor prior to the annual January 31 expiration of your psychological assistant registration to make sure that your renewal fees were paid. It is the responsibility of the supervisor/employer to pay the application and renewal fees.*

*Both of these precautions will help to ensure that all of your hours of supervised professional experience will be counted toward your licensure.*



## Ten Years After

(Continued from page 6)

exams are basic and should easily be passed by those candidates who are minimally competent to practice psychology and who have appropriately prepared for the examinations. It was Shakespeare who said, "The fault . . . is not in our stars, but in ourselves . . ." I wish more licensing applicants would read Shakespeare—we would either have a higher pass rate or much more eloquent examination appeals!

Regarding enforcement, the Legislature has made it loud and clear that all regulatory boards must fulfill their sole mandate of public protection or cease to exist. The political climate does not now nor has it in recent years tolerated regulatory boards that function as guilds or protectors of the profession. Prior to 1987 the Board's enforcement record was not a record of which much pride could be acclaimed. Complaints went without response, and disciplinary actions often went unenforced. It was not unusual for the Board to prove that a psychologist had sexually

abused a patient only to put the offending psychologist on probation only to then have the offending psychologist once again sexually abuse another patient. If such a lackadaisical approach to consumer protection had not been reversed, as it was beginning in 1987, sooner or later extreme damage would have occurred to the profession of psychology as we know it in the State of California. This sad state of affairs went unchecked and, as I recall, was generally ignored and quietly accepted by the profession.

Now the Board hears from semi-organized groups of disciplined or about to be disciplined psychologists who find the whole enforcement procedure of the Board to be "unfair," "inquisition-style," "abusive," and many other adjectives which cannot be used in primetime. These are the same licensees who were quiet throughout the pre-1987 years of inaction on the part of the Board. These are the same licensees who seem to not understand that the legal and ethical standards apply equally to each and every psychologist regardless of his or her eminence or reputation. In every aspect

of its enforcement procedures, the Board follows the law. If licensees beg to differ with the manner in which the Board conducts its enforcement processes, then they may bring their perceived deficiencies in California Administrative Law to the attention of the Legislature to change the laws that guide all regulatory boards. Perhaps the Board would be willing to join forces on some of these issues. To attack the Board of Psychology for its enforcement processes which are driven by specific laws and regulations would be the same as attacking a passenger for the manner in which the bus is being driven.

In recent years, the Board has made outreach efforts to better communicate not only to consumers and students but also to the profession and to the aforementioned adversarial groups. In these educational efforts, it has become clear that some of these groups do a disservice to their colleagues by distributing inaccurate, inflammatory, and destructive information about how the Board carries out its mandate. For example, quite often we hear that

(Continued on page 14)

## Sunset Review

(Continued from page 2)

7. Whether the complaint, investigation, and disciplinary processes of the Board adequately protect the public and whether final dispositions of complaints, investigations, restraining orders, and disciplinary actions are in the consumer interest.

## Public Hearing

In addition to submitting a report to the Joint Legislative Committee, each board must also participate in a public hearing. The new law states, "Prior to termination, continuation, or reestablishment of any board or any of the board's functions, the Joint Legislative Sunset Review Committee shall, during the interim recess preceding the date upon which a board becomes inoperative, hold public hearings to receive testimony from the Director of Consumer Affairs, the board involved, and the public and regulated industry. In that hearing, each board shall have the burden of demonstrating a compelling

public need for the continued existence of the board or regulatory program, and that its licensing function is the least restrictive regulation consistent with the public health, safety, and welfare." The public hearing for the Board of Psychology, as well as most other health boards, will be in the fall of 1997.

## Board Efforts

What is the Board currently doing to prepare for Sunset Review? Mostly, the Board has been monitoring the process as other boards complete their reports and experience their hearings. The Board is anticipating that the questions asked in the first round of reviews will be modified substantially for the second and third rounds of review.

Additionally, the Chairperson of the Board has appointed a Sunset Review Committee consisting of both licensed and public members of the Board of Psychology, Board staff, and a representative from the California Psychological Association (CPA). It is important that CPA participate in this process, while

keeping in mind that the Joint Sunset Review Committee will be looking **solely** at issues of **consumer protection** and will not be inclined to be attentive to issues which represent the interests of the profession. This has been made extremely clear at all points in this process to date.

We must look at the excellent record of the Board of Psychology over the last decade and take note of its pioneering strides in the areas of improvements, efficiencies, and achievements in enforcement, consumer education, and examination validation. We hope that with this strong reputation, the Board of Psychology will survive as an independent regulatory board overseeing the unique profession that the current practice of psychology truly is. If the Board of Psychology is sunsetted, this would be the end of psychology as a profession as we know it in the State of California. Here, more than in any other state, there is certainly an imposing need for the continued existence and regulation of the profession of psychology. We intend to document and demonstrate this to the Legislature.



## April 1996 Written Exam Statistics, by Schools

SCHOOL	DEGREE	PROGRAM	PASS	FAIL	SCHOOL	DEGREE	PROGRAM	PASS	FAIL
Adelphi University, New York	PhD	Psych	1	0	Syracuse University, New York	PhD	Psych	1	0
American School of Prof Psych	PsyD	Psych	1	0	Union Graduate School	PhD	Appl Behav		
Auburn University, Alabama	PhD	Psych	1	0	Union Graduate School		Science	0	1
Bangalore University, India	PhD	Psych	1	0	Union Institute	PhD	Psych	0	1
Biola/Rosemead University	PsyD	Psych	4	0	U Alabama	PhD	Psych	1	0
Boston University	EdD	Ed Psych	2	0	U Alberta	PhD	Psych	0	1
Brigham Young University	EdD	Ed/Ed Psych	1	0	U Arizona	PhD	Rehab	0	
C G Jung Institute, Zurich	PhD	Psych	1	0	U Delaware	PhD	Psych	1	0
CA Coast University	PhD	Psych	1	6	U Hartford	PsyD	Psych	1	0
CA Grad Sch of Family Psych	PhD	Psych	1	5	U Humanistic Studies	PhD	Psych	2	0
CA Graduate Institute	PhD	Psych	17	10	U Manitoba	PhD	Psych	1	0
CA Graduate Institute	PsyD	Psych	0	0	U Michigan	PhD	Psych	1	0
CA Graduate School of Psych	PhD	Psych	3	3	U Minnesota	PhD	Psych	1	0
CA Institute of Integral Studies	PhD	Psych	1	2	U Mississippi	PhD	Psych	1	0
Cambridge Grad School of Psych	PhD	Psych	2	6	U Nevada, Reno	PhD	Psych	1	0
Center for Psych Studies	PhD	Psych	1	0	U North Texas	PhD	Hlth/Behav		
City University of New York	PhD	Psych	0	1	U North Texas		Med	0	1
Claremont Graduate School	PhD	Psych	0	1	U Pennsylvania	PhD	Psych	1	0
Concordia University	PhD	Psych	1	0	U Pittsburgh	PhD	Ed/Co Psy	1	0
CSPP - Alameda/Berkeley	PhD	Psych	19	13	U of the Pacific	PhD	EdDEd/Co		
CSPP - Alameda/Berkeley	PsyD	Psych	0	1	U of the Pacific	Psych	Ed/Ed Psy	1	1
CSPP - Fresno	PhD	Psych	9	7	U San Francisco	EdD	Ed/Co Psy	4	6
CSPP - Los Angeles	PhD	Psych	23	19	U Tennessee	PhD	Psych	1	0
CSPP - Los Angeles	PsyD	Psych	7	2	U Texas, Austin	PhD	Ed Psych	2	1
CSPP - San Diego	PhD	Psych	19	4	U Utah	PhD	Ed Psych	0	1
CSPP - San Diego	PsyD	Psych	0	0	U Utah	PhD	Hlth Science	1	0
Emory University, Georgia	PhD	Psych	1	0	U Vermont	PhD	Psych	1	0
Fielding Institute	PhD	Psych	5	1	UC Berkeley	PhD	Ed Psych	1	1
Forest Inst of Prof Psychology	PsyD	Psych	1	1	UC Berkeley	PhD	Psych	1	1
Fuller Theological Seminary	PsyD	Psych	7	2	UC Davis	PhD	Behav/Indiv	1	0
George Fox College	PsyD	Psych	2	0	UC Irvine	PhD	Psych	1	0
Grad Cnt for Child Devel & Psy	PhD	Psych	1	0	UCLA	PhD	Psych	2	1
Institute of Transpersonal Psych	PhD	Trans Psy	2	1	UCLA	PhD	Ed/Co Psy	1	0
International College	PhD	Psych	1	2	UC Riverside	PhD	Ed/Ed Psych	1	0
Johns Hopkins	PhD	Psych	1	0	UC Santa Barbara	PhD	Ed/Co Psy	2	0
La Jolla University	PhD	Psych	1	2	UC Santa Cruz	PhD	Psych	1	0
La Jolla University	PsyD	Psych	0	0	UC San Diego	PhD	Psych	4	0
Loyola University	PhD	Psych	1	1	USC	PhD	Ed/Co Psy	5	2
Maharaja Sayajirao Univ, India	PhD	Psych	0	1	USIU	PhD	Psych	13	18
Minnesota School of Prof Psych	PsyD	Psych	1	0	USIU	PsyD	Psych	3	1
Newport University	PsyD	Psych	1	7	USIU	PhD	I/O Psych	0	1
Nova Southwestern University	PsyD	Psych	1	0	USIU	PhD	Clin/Sports	1	0
Pacific Graduate School of Psych	PhD	Psych	14	2	USIU	EdD	Ed/Ed Psy	1	0
Pacific Western University	PhD	Psych	0	1	Washington State University	PhD	Psych	1	0
Pacifica Grad Institute	PhD	Psych	2	0	Western Graduate School of Psych	PhD	Psych	1	3
Pennsylvania State University	PhD	Psych	1	0	Western Reserve University	PhD	Ed Psych	0	1
Pepperdine University	PsyD	Psych	5	1	William Lyon University	PhD	Psych	0	4
Prof School of Psychology	PhD	Psych	9	5	William Lyon University	PsyD	Psych	0	1
Prof School of Psych Studies	PhD	Psych	1	2	Wright Institute	PhD	Psych	11	7
Psychological Studies Institute	PhD	Psych	0	1	Wright Institute	PsyD	Psych	1	0
Punjab University	PhD	Psych	0	1	Yale University	PhD	Psych	1	0
Rosebridge Grad Sch of Psych	PhD	Psych	1	2					
Ryokan College	PsyD	Psych	3	3	<b>TOTAL</b>			<b>259</b>	<b>178</b>
San Francisco School of Psych	PhD	Psych	3	2					
Sierra University	PhD	Psych	3	2					
Southern Illinois University	PhD	Psych	1	0					
Stanford University	EdD	Psych	1	0					

This statistical data is provided for informational purposes only. The data is not in any way meant to imply any endorsement by the Board of Psychology of any particular educational institution.





## Informed Consent

(Continued from page 3)

dentality be disclosed to a prospective client. Standards 6.11, 6.12, and 6.13 require researchers to obtain informed consent from subjects, and Standard 7.03 requires forensic psychologists to clarify their roles in cases. By far, the most comprehensive description of informed consent procedures was written by Dr. Christa Peterson, Chair of the Nevada Board of Psychology (1996) (Professional Conduct and Discipline, pages 277-296. American Psychological Association).

The most important question is what information the client should receive in order to obtain thorough informed consent. It is recommended that the client be informed of:

1. Limits of confidentiality;
2. Nature and extent of your record keeping system;
3. Your title, training, experience, and any areas of special expertise or any areas in which you are not adequately trained to provide services to clients;
4. Probable length of services;
5. Risk of the services you are providing;
6. Alternatives to the services you are scheduled to provide;
7. Your fee, as well as any relevant billing practices;
8. The rights of the person receiving services;
9. The rights of not proceeding with anticipated services (see *Truman v. Truman*, 27 Cal.3d 285, 165 Cal. Rptr. 308);
10. Emergency access to you or someone who can respond to a psychological crisis, if applicable.

In disclosing the limits of confidentiality, you should advise clients of the child, elder, and dependent abuse reporting laws, Tarasoff requirements (California Civil Code Section 43.92), violence reporting act requirements if applicable, whether you will discuss a client's case with a supervisor or consultant, and any evidence code exceptions that are likely to apply (California Evidence Code Section 1010 et. seq.), as well as third-party payor policies and requirements. If

there is a high probability of disclosure to a third party such as a court, probation officer, or school official, you should disclose this to your client. If others in your practice may have access to the client's records, you should disclose this possibility.

All financial arrangements should be described in writing for a client. These include your hourly fee, charges for telephone calls, any research charges if applicable, insurance billing policies, and whether you expect to charge a client for cancellations of appointments and collection practiced. Clients who seek therapy should be advised of the risks of treatment, including the fact that they may not improve, the potential for disruption in the client's life when change occurs, the likelihood that therapy may be emotionally painful at times, and the potential consequences for their career if they obtain psychological treatment.

There are three ways to practice proper informed consent. First, your informed consent policies must be in writing. They must be written in language that is generally understandable to clients. Second, you should verbally discuss informed consent with your clients prior to providing services to them. There is an affirmative duty for you to ensure that the

persons receiving psychological services understand the rules to be applied to them. Third, the informed consent process should be documented in client records. The process can be documented in the record with a short sentence or two, such as "Discussed informed consent rules with the client; there was no area of disagreement or misunderstanding." Part of the documentation should include a signed copy of the written informed consent agreement placed in the client's file.

The process of informed consent brings the client into a partnership with you and models the concept of full disclosure; a lesson not unhelpful in the provision of psychological services. Your clients have the right to know what to expect from you in their association with your practice. The rules and policies of psychological practice are not supposed to be a secret. If you become comfortable with informed consent procedures, you will find they are useful for legal purposes and also as a means to foster trust in your relationships with your clients. The BOP finds psychologists have a legal, ethical and clinical obligation to obtain proper informed consent from clients. Procedures to establish informed consent should be implemented immediately in your practice.

### Did you know?

*Did you know that the requirement that all **applicants for license** complete training in the detection and treatment of alcohol and other chemical substance dependency is completely separate from the requirement in the new continuing education regulations that all **licensees** take a course in the same subject area?*

*Section 2914(e) of the Business and Professions Code requires that prior to being issued a license as a psychologist, each applicant who entered graduate school on or after September 1, 1985 must obtain training in the detection and treatment of substance dependency. This requirement is **prior** to licensure, for applicants only.*

*Section 1397.61(b) of the Code of Regulations requires that all currently licensed psychologists who wish to renew their licenses after January 1, 1997 must show evidence of having taken a course in substance dependency in order to renew the license. This requirement also pertains to those licensees who were required to meet the licensing requirement in 2914(e).*

*These are **two separate** requirements. Do not confuse them with each other. Even if you were required to complete a substance dependency course in order to obtain your initial license, you must **still** take another qualifying substance dependency course for your first license renewal after January 1, 1997.*



## Ten Years After

(Continued from page 10)

the Board holds licensees accountable for current standards of practice for actions taken in years past. This is unequivocally untrue. All consumer complaints are evaluated pursuant to the standards of care in existence at the time the allegations are alleged to have taken place. New regulation proposals will actually clearly state this in the Code of Regulations and will hopefully end the potential for misinformation, at least in this regard in the future. So often we hear defenses that the standards of care regarding sexual misconduct with patients were ambiguous as late as 1990! To the contrary, the standard of care in this regard was quite clear eons before psychologists were first regulated in this State in 1958. Pope and Vasquez state in *Ethics in Psychotherapy and Counseling: A Practical Guide for Psychologists*, "One of the oldest ethical mandates in the health care professions is the prohibition against engaging in sexual intimacies with a patient. Brodsky (1989) notes that this rule is in fact older than the 2,500-year-old Hippocratic Oath; it was mentioned in the even more ancient code of the Nigerian healing arts. That this prohibition has remained constant over so long a time and throughout so many diverse cultures reflects to some extent the recognition that such intimacies place the patient at risk for exceptional harm."<sup>1</sup> Or, if you are of the more low-brow crowd as I am, go to your Blockbuster and rent the 1957 film *The Three Faces of Eve*. Toward the end of the movie when Eve Black, the promiscuous, outgoing personality, taunts her therapist to go to dinner and dancing with her, the therapist adamantly refuses the invitation, stating that he cannot join her "because I am your psychiatrist and it is against the rules." Going back even further to the 1945 Alfred Hitchcock film, "Spellbound," when Gregory Peck suggests to his therapist played by Ingrid Bergman that he spend the night in her room, she quickly refuses by stating, ". . . that would be unethical." Here I need to emphasize that while movies do not in any way establish the ethical standards

<sup>1</sup>Kenneth S. Pope and Melba J. T. Vasquez, *Ethics in Psychotherapy and Counseling: A Practical Guide for Psychologists* (San Francisco, CA: Jossey-Bass Inc., 1991)

for the profession of psychology, these two classics do reinforce the conclusions of the above noted professional experts. Defense claims of a respondent's ignorance of the prohibition of sexual contact with a patient just simply are not credible. Ignorance of this prohibition does not heal the permanent wound that it imbeds in its victims, nor does it protect future potential victims from the same harm.

The Board has also seen a number of admitted sexual contact cases wherein the defense argues that the psychologist should not be revoked because the sexual contact was with a former patient. The Board cannot turn its head in such cases—a former patient is a patient—that happens to have been terminated. To rationalize, as defense attorneys often do, that simply because there was no law to specifically prohibit a psychologist from having sex with a former patient that such an act is acceptable, makes as much sense as accepting that a psychologist may, one year after a patient has been terminated, alter such a patient's records. Just because there is no specific law to prohibit such a specific act does not mean that such an act is within the accepted standard of care for the time. Recognition of such principles regarding abuse of patients after termination I have found in publications dating back to 1977.

Ten years for me is about to have come and gone, and I am proud of the accomplishments of the Board of Psychology over this past decade. During this time I have seen a good and appropriate working relationship with the California Psychological Association (CPA) and other smaller local associations. I have never experienced anything approaching an adversarial relationship with the state association. The Board has always been

willing to support any CPA-sponsored legislation which served the public interest, and CPA has always assisted the Board with its legislative endeavors over the years. CPA and the Board of Psychology have always carefully observed those appropriate boundaries which must exist between regulator and guild. The new continuing education program is a result of these two entities working collaboratively and appropriately together toward one goal which not only enhances public protection but also enhances the credibility of each licensee who complies with the program at license renewal time.

I am proud of what the Board of Psychology has become and what it has achieved over the past ten years. I am generally proud of the direction in which the Board is continuing to move.

I am proud that the Board has achieved validation and defensibility of its examinations and continues to invest so much energy on maintaining and enhancing examination quality. I am proud that the California Board of Psychology is scrutinizing its examination and credentialing processes to ensure that it does not inadvertently establish barriers to the entry to the profession and that the Board has become sensitive to those issues which interfere with psychologists' mobility across state and national lines. In these regards, the California Board of Psychology has become a progressive world leader.

I am proud of the Board's enforcement program and yes, it is a strong enforcement program which takes a tough line in its discipline of psychologists who violate the law and its mandate to solely serve to protect the public. I sincerely believe that each and every licensee, if he or she could only set aside their own personal issues, would be in awe of the tremendous task mandated to the Board in this regard. I listen intently to the criticisms of California Administrative Law and of the Board's enforcement program. Those of a constructive nature, I make efforts to incorporate. Those criticisms of a destructive nature always boil down to an inability to understand that the Board of Psychology exists solely to serve consumers. In fact, the Board may be more aptly titled, "Board of Consumers." The Board does NOT exist to further the cause of the profession. Neither the Board of Psychol-

(Continued on page 15)

### Did you know?

*Did you know that the address listed on your BOP Update mailing label is your address of record? This is the address that is given to the public upon request and where your license renewal forms are sent. If you wish to change this address, you must send a written request to the Board office in Sacramento. The Board recommends that you not use your residence address for obvious reasons.*



## BOP Publications

You no longer need to speak to a live person to request printed materials from the BOP. Our computer phone system is equipped to take requests for most of the Board's publications. To make such a request, simply call (916) 263-2699 and follow the computer's instructions to record your name, address, and the publications you need.

If you are ordering the *Laws & Regulations . . .*, please send your written request with a check for \$4 made out to the Board of Psychology, 1422 Howe Avenue, Suite 22, Sacramento CA 95825.

<i>Laws &amp; Regulations Relating to the Practice of Psychology</i> .....	\$4
<i>Board of Psychology Disciplinary Guidelines</i> .....	Free
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<i>All About the California Board of Psychology</i> .....	Free
<i>Do You Have a Complaint?</i> .....	Free
<i>Everybody Has Problems</i> .....	Free
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<i>Professional Therapy Never Includes Sex</i>	
Single copies .....	Free
Licensees may order in bulk from the Department of General Services. Call or write to BOP for an order form. Also available in Spanish.	
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<i>Spectrum of Administrative Actions</i>	
<i>Available to the Board of Psychology</i> .....	Free
<i>Consumer Complaint Information and Complaint Form</i> .....	Free



## Ten Years After

(Continued from page 14)

ogy nor any other regulatory board in California exists to serve the purpose of a professional association. If a regulatory board is serving the interests of the profession by functioning in the role of a professional association, then it is clearly and conclusively time for such a board to be sunsetted. Regulatory boards may serve the profession only indirectly by strongly fulfilling their mandate to serve consumers and by doing so legitimize and strengthen the profession being regulated.

I am proud of the Board's efforts when I am approached by a victim of psychologist abuse subsequent to successful disciplinary action and thanked by the victim for taking the time to help him or her and all the subsequent potential victims that could have occurred if no Board existed. I am proud that just because a victim of psychologist abuse is "troubled," the Board does not take any

less seriously his or her right to be protected. If the Board refused to review complaints because of the "troubled" nature of the complainants, then the Board would never again review a complaint. Let's face it, most if not all individuals seeking help from a psychologist are to some degree "troubled." Through personal interaction with such victims I know that the effects of psychologist sexual abuse are devastating to a life and are long-standing and so severe as to interfere with the victim's ability to work, to enter into close relationships, and to ever again be able to trust the therapeutic process in the future. Some in the profession speak as if such victims deserve what they got, and such a position is simply barbaric. These victims often become socially withdrawn, depressed, severely anxious and impaired in many of their daily life functions. For these reasons, the Board has come to believe, and rightly so, that the "capitol" crime of the profession of psychology is the ultimate act of

## Put BOP's Phone System to Work for You



The Board receives an average of nearly 500 telephone calls per day! This is obviously far more calls than the few staff persons can personally handle. If you do need to speak with a specific staff person, chances are the person you need to speak to is already on his/her line helping another applicant, licensee, or other member of the public. If this is the case, you will be sent directly to his/her voice-mail.

LEAVE A MESSAGE with your name and phone number, and the staff person to whom you need to speak will attempt to call you back within 24 hours.

If you don't leave a message, we can't call you back. Put voice mail to work for you! Please call (916) 263-2699.

betrayal in a patient's or former patient's trust. It is the act of sexual misconduct and cannot, in any way, shape or form be tolerated.

I am proud of all of my interactions with the vast majority of licensees who exhibit strong professionalism, competency, and an honest empathy for the incredible mandate imposed upon the Board. It is these individuals that truly exemplify this profession, and it is these individuals who provide such badly needed top-quality mental health services to our society as only psychologists are capable of providing.

As I did ten years ago, I hold the profession of psychology in high regard. I must add that time and circumstance have added new dimensions to my perceptions of the profession and of my task as the Board's executive officer, which only makes it all the more interesting to come to work each morning. Ten years have come and gone and it certainly has been an amusing educational experience for which I am grateful.

# Board of Psychology

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**MISSION:** *The Board of Psychology is committed to the protection of the health, safety, and welfare of consumers of psychological services.*

## 1997 Board Meeting & Examination Calendar

DATE	EVENT	LOCATION
January 11	Oral Examination	Los Angeles
January 18	Oral Examination	San Francisco
February 21	Item Writer's Workshop	San Francisco
March 7 & 8	Board Meeting	Sacramento
April 16	Written Examination	L.A. & Oakland
May 16 & 17	Board Meeting	Los Angeles
June 21	Oral Examination	Los Angeles
June 28	Oral Examination	San Francisco
July 18	Item Writer's Workshop	Los Angeles
August 22 & 23	Board Meeting	San Francisco
October 8	Written Examination	L.A. & Oakland
November 14 & 15	Board Meeting	San Diego

*NOTE: There are no planned meetings or examination functions in the months of September and December.*

OSP 97 75973

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS  
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