

The University of the State of New York
State Education Department
OFFICE OF THE PROFESSIONS
State Board for Mental Health Practitioners

Friday October 22, 2021 via WebEx

The State Board met by video technology at individual sites pursuant to Chapter 417 of the Laws of 2021 that allows the State Board meeting to be held by video, open to the public.

Draft Minutes

Present Natalie Riccio, Chair; Sara Friedman-McMullian, Vice-Chair; Ann Canastra, Helena Boersma, Susan Boxer Kappel, Rene Jones, Mikki Meyer, Timothy Mooney, Angela Musolino, Holly Vollink-Lent, Jill Weldum

Absent: Thomas Biglin, Sargano Jain, Rene Jones, Susan Weeks

Staff: David Hamilton, Executive Secretary; Mary Fish and Pamela Miller

Visitors: Theresa Cosgrove, Diana Georgia, Pamela Madeiros, Denise Murphy-McGraw, Naomi Naztat, Merrill Schneiderman, Elizabeth Schwartz, Alice Sorensen, Tracy Wanamaker.

1. Welcome and review of agenda

Chair Natalie Riccio convened the meeting at 10:35 a.m. on video, welcoming Board members, staff and members of the public. The agenda was adopted without change.

2. Review of Minutes of June 18, 2021

There were no suggested changes to the minutes.

3. Executive Secretary's Report

Secretary Hamilton provided the Board members with an update on processing applications for limited permits, licenses and registrations. The processing times have increased this year, due to multiple vacant positions in the Office of the Professions. In addition to the on-going OP Modernization Program, new technology and procedures, such as online applications for licensure and limited permits, will eliminate mail delays and allow quicker receipt of necessary documents. At this week's meeting, the Board of Regents received an update from Deputy Commissioner Sarah Benson and discussed legislative priorities, including funding for staffing and modernization.

Board members and members of the public were reminded that licensed professionals and consumers of mental health services are invited to submit applications for upcoming vacancies on the State Board. Information about the 30 State Boards and Committees is at www.op.nysed.gov/boards/.

Governor Kathy Hochul issued Executive Order #4 on September 27, 2021 to allow licensed mental health practitioners to practice without registration for the duration of the Executive Order. The majority of the Orders issued by former Governor Andrew Cuomo expired in June 2021, including those authorizing out-of-state mental health practitioners to practice in New York without licensure. Chapter 417 of the Laws of 2021, effective September 2, 2021 allows meetings of State Boards through video technology until January 15, 2022, due to the effects of COVID. It is unknown whether there will be an extension of that option, in law or executive orders.

4. **Discussion: Effect of COVID-19 on licensure and practice**

The Board of Regents approved as a permanent rule the emergency regulation that allows supervision by telephone or video technology to continue beyond the COVID State of Emergency.

The supervisor remains responsible for the assessment, evaluation and treatment of each client seen by the supervisee. Supervised client contact hours completed through distance technology may be submitted on Form 4B, as part of the supervised experience requirement for licensure and do not have to be designated as such.

All treatment and supervision provided through distance technology must be completed through secure means, whether on the telephone or through the use of video conferencing. **Texting and email are not acceptable forms of supervision at any time**, other than to notify the supervisor of an urgent situation that requires intervention.

Board members discussed the value of technology, as a sole form of practice and supervision, or as a hybrid method used with traditional in-person or face-to-face supervision and practice. It was noted that some interns or permit holders---or their patients---may not be vaccinated or able to socially distance, therefore, remote practice would be the safest and most appropriate way to practice and receive supervision.

Interns and permit holders should, to the extent possible and allowed under COVID rules, complete supervised practice experience that includes in-person services and supervision. The Board may consider a limit or cap on the hours of distance practice, based on further discussion and deliberation, including review of standards in other jurisdictions and differences among the four professions under Article 163. The Chair will consider the appropriateness of creating a work group on supervision, to develop standards and guidance.

Secretary Hamilton noted that the current regulations are written as if each applicant will complete all hours and supervision in a single setting. A permit holder must receive one hour per week or two hours every other week of in-person individual or group supervision. If the permit holder practices in more than one setting, the same supervision standard applies in each setting, from a qualified supervisor in that setting. The review of supervision models, including the use of terms “in-person” or “face-to-face” will include these factors to clarify the experience requirements for licensure.

5. Associations of Jurisdictional Boards

The Department participates on boards comprised of jurisdictions that license specific professions:

- American Association of State Counseling Boards (AASCB) for mental health counselors and
- Association of Marital and Family Therapy Regulatory Boards (AMFTRB) for marriage and family therapists.
- There are no similar organizations for creative arts therapists or psychoanalysts.

Jurisdictional boards typically develop and administer the examination used for licensure in North America and provide an opportunity to collaborate on emergency issues, such as tele-practice across jurisdictional boundaries.

Board members received proposed plans from AASCB and AMFTRB regarding telepractice and ways to facilitate the “transfer” of a professional license from one state to another or to allow practice in other states. There have been discussions over the years about “national standards” but those become difficult when a state has more or less stringent requirements. In addition, there is no such provision for psychoanalysts who are not licensed in all states, so they could not practice that profession in another jurisdiction without a license in that jurisdiction. The pandemic has accelerated such discussions and the Board will be updated and involved, as appropriate.

6. Professional Practice and Licensure

At the June 18, 2021 meeting, the State Board discussed the end of the exemption from licensure later that month. However, Governor Cuomo signed Chapter 187 of the Laws of 2021 on June 24, 2021 to extend the exemption for one additional year. The Board received information about the activities defined as the practice of the profession; those activities that do not require licensure; a personal, life-long exemption from licensure for individuals employed in certain programs prior to June 24, 2022; and provisions that allow individuals with a qualifying degree to practice in certain settings without licensure or a limited permit.

There will be discussions in the coming months regarding the end of the exemption, which may include clarification about practice and those activities that do not require licensure. The State Board will be apprised of activities in that area

and, as appropriate, consulted to help identify the tasks and activities that fall in those categories.

7. Other business

Member Weldum commented that some supervisors are not clear on the professional responsibility of a licensed supervisor. She asked that the agenda for the next meeting include a discussion of the supervisor's responsibilities, including those are related to the performance of the permit holder under supervision, documentation of experience, and other ethical factors. Secretary Hamilton will follow up for guidance and model standards or policies from other jurisdictions or associations prior to the next meeting.

8. Adjournment

Secretary Hamilton will consult with the Chair and Vice Chair to schedule the next meetings of the State Board. There being no other business, members were thanked for their participation.

The State Board adjourned at 11:55 a.m.

Submitted by



David Hamilton, Ph.D., LMSW
Executive Secretary