

Examining Board of Psychology

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Message from the Chair: Timothy Cahn, Ph.D.

The end of my decade on the board is near. I am surprised by how fast the time has passed. After 10 years of service I finally feel like I know what I'm doing. I have a new appreciation for the 5 and 10- year contributions of past board members. Thanks to those who have served.

My letter today is to express my appreciation for our past program manager, Betty Moe. Betty served as the EBOP program manager for the past 11 years. Many of us probably interacted with Betty on the phone, in person or via email. All of us have been impacted by Betty's outstanding service. Betty's last day as EBOP program manager was April 30th.

All things must change. It was time for Betty to take on new challenges, just as it is time for the EBOP to work with new leadership staff. However, it feels to me like it's time for Washington State psychologists to simply express our thanks to Betty for her exceptional work on our behalf the past 11 years.

Please send Betty an email. Her email address is Betty.Moe@doh.wa.gov ; write "Thanks" in the Subject line and hit send". That's all.

Tim Cahn

Chair, EBOP

From your Executive Director: Nancy Tyson

Nancy Tyson is the Executive Director for Health Professions and Facilities at Washington State Department of Health with oversight of the Psychology program. She is also responsible for several other professions and facilities to include: the Social Worker series; Mental Health Counselor series; Marriage and Family Therapists; Agency Affiliated Counselors; Chemical Dependency series; Certified Counselor and Hypnotherapists; Sex Offender Treatment program; Hospitals; Ambulatory Surgical Facilities; Residential Treatment Facilities; Temporary Worker Housing; Child Birth Centers; In-Home Services (Home Health, Home Care & Hospice); and State Institutions.

Before coming to the Department of Health in December 2014, Nancy was a Regional Administrator for long-term care facilities in Residential Care Services, a division of Aging and Long-term Support Administration, Department of Social and Health Services. Prior to working in Aging, she spent many years in Children's Administration working with social workers in permanency planning for state dependent youth. She has been a public servant in state service almost 32 years. Her education, background and career focus is social services working with vulnerable populations.

Outside of work, Nancy is proud mama to 2 furry critters, Abby a black lab rescue and Molly a tabby rescue. We're not sure who rescued who. Nancy grew up in western Washington and has a sister in Boistfort. Close to her heart are many 20-somethings including a niece and nephew, children of lifelong friends and various kids raised in foster/adoptive homes. Weekends find her at home working in a nothing-to-brag-about flowerbed or spending time with sister, Patty, and/or friends. It's people and critters that make her happy.

Potentially Impaired Health Professionals

John Furman, PhD, MSN, Executive Director

Washington Health Professional Services

Overview -In the late 1970s, Washington State health profession boards and commissions began seeing an increase in the number of health professionals whose practice was potentially impaired by alcohol and/or substance use. At that time, the only avenue was to take disciplinary action. As a result, many highly skilled, productive practitioners lost their licenses.

In 1988, the Legislature took action to amend the Uniform Disciplinary Act to direct the department to provide an alternative to discipline option. In addition to playing an important role in protecting public health and safety, alternative to discipline monitoring programs promote early identification, entry into treatment, and safe return to practice. The Department of Health houses three approved impaired practitioner programs:

- The Washington Recovery Assistance

Program for Pharmacy (WRAPP), which the Washington Pharmacists Association and the Washington State Society of Hospital Pharmacists founded in 1983.

- The Washington Physicians Health Program (WPHP), which the Washington State Medical Association founded in 1986. It provides services to medical doctors, dentists, veterinarians, podiatrists, and physician assistants.
- The Washington Health Professional Services Program (WHPS) began in 1991 to serve psychologists, nurses, counselors and other health professionals.

The programs accomplish safe and effective monitoring, requiring health professionals to:

- Undergo indicated treatment;

- Participate in random drug screening, and ongoing recovery activities (e.g. sober support group participation and relapse prevention education):
- Inform their employers of their chemical dependency and or behavioral health concerns:
- And agree to strict monitoring of their professional practice. In most cases the health professional is required to successfully participate in the monitoring program for a minimum of five years.

To facilitate early entry and participation in monitoring, the programs protect the confidentiality of referral sources and monitored health professionals to the maximum extent provided by state and federal law. While confidentiality from public scrutiny is an incentive for the health professional to enter into

Potentially Impaired Health Professionals
John Furman, PhD, MSN, Executive Director
Washington Health Professional Services - Cont.

treatment and monitoring, the professional's disciplinary authority receives information about concerns that arise regarding the individual's ability to practice with reasonable safety. All actions taken against the health professional's license are available to the public via the department's provider credential search tool.

Alternative to discipline programs protect the public by supporting the various health professions' boards, commissions, and committees in fulfilling their mission to protect the public. They also serve the people of Washington State by providing the means to retain highly educated and skilled health professionals.

The traditional disciplinary process is often long and costly, and allows the potentially impaired health professional to continue to practice unmonitored. Without the alternative to discipline option, in many cases, it would not be possible to immediately act to safeguard the public. Voluntary entry monitoring engages the professional in treatment, and permits return to practice only when the program deems the professional safe to return.

As you recall, back in November, the Washington Health Professional Services (WHPS) program went through a reorganization. The nursing portion of the WHPS program was transferred to the Nursing Care Quality Assurance Commission as part of the new joint operating agreement. The rest of the monitoring program continues to be managed within the Office of Health Professions and Facilities (HPF). This is to let you know that the HPF monitoring program has a new name!

Washington Recovery and Monitoring Program (WRAMP)

WRAMP monitors over 60 types of health care practitioners with substance use disorders. While our name has changed, WRAMP business practices remain the same. You can still reach us at 360-236-2880 select option 2. We look forward to continuing and/or establishing new working relationships with you. Let us know if you have any questions!

WRAMP team:

- Mikel Olsson, Case Manager
- Amanda Capehart, Case Manager
- Tracy Gage, Case Management Associate
- Kathy Schmitt, Executive Director

Rules in Progress

The Examining Board of Psychology (board) is considering creating new sections to allow for accepting courses taken outside the doctoral degree-granting program, and to develop standards for applicants applying by endorsement.

Under the board's current rules (WAC 246-924-046) only courses that were taken as part of the degree-granting program count toward meeting the educational components for licensure. In some circumstances, specific courses may have been unavailable during an applicant's doctoral program. This results in an applicant receiving a qualifying doctoral degree, but the applicant may not have met specific course requirements under WAC 246-924-046 (3). Applicants may have taken pre or post-doctoral courses to fulfill the course requirements.

The board is in the process of developing rules to establish the circumstances in which additional coursework could be applied to the educational requirements. The interpretive policy statement filed with the Office of the Code Reviser as WSR 12-08-020 initially identified some of these circumstances.

Under RCW 18.83.170 (1) and (2) (a), the board determines whether

another state or country has adopted licensing requirements for doctoral-level psychologists that, in the board's judgment, are essentially equivalent to those required under chapter 18.83 RCW and chapter 246-924 WAC.

When the board determines that another state or country is not equivalent, it adopts a finding that identifies which licensing requirement(s) is not equivalent (e.g., omitted or insufficient) in that state's or country's licensing laws and regulations.

Except for licensing requirement (s) the board finds non-equivalent, the board considers that state's or country's licensing requirements equivalent.

When reviewing another state's or country's qualifications the board determined that some states weren't essentially equivalent. The board didn't want to deny these applications when only some of the licensure requirement(s) were omitted or insufficient.

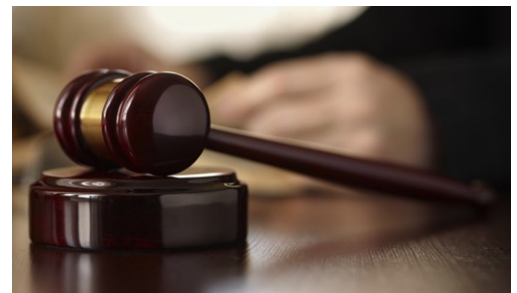
Instead the board began to determine what elements are not equivalent in other states or countries, and allowed applicants to demonstrate completion of the non-equivalent issues to qualify

for licensure, by documenting that they have met Washington requirements.

This option will provide an alternative for licensure for a subset of applicants from a state (or country) determined to be non-equivalent when an applicant has, in his or her doctoral program and experience, met the requirements under the board's rules.

The board is considering adopting in rule a licensure process for applicants licensed (at least two years) in a state or country determined non-equivalent under RCW 18.83.170. This option would decrease barriers to licensure, while maintaining public protection.

The board has held two stakeholder workshops related to this issue.



New Member Spotlight - Dr. Ruby Takushi

Ruby Takushi, Ph.D. is a clinical psychologist and serves as Director of Programs for the Recovery Café. She also teaches in the School of Theology and Ministry at Seattle University. She received her doctorate in clinical psychology from Fuller Theological Seminary in 1990. While training at the University of Washington Addictive Behaviors Research Center from 1996-1999 Dr. Takushi conducted research and published in the field of gambling addiction and cross-cultural counseling. Prior to arriving in Seattle she lived in Washington D.C. and completed her post-doctoral training at St. Elizabeths Hospital with a specialization in Group Psychotherapy. She served on the faculty of Howard University from 1992-1996 during which time she also worked as a staff psychologist at the D.C. General Hospital Methadone Clinic for women. She has served on the board of the Evergreen Council for Problem Gambling and currently serves on the board of the Recovery Café (www.recoverycafe.org). Dr. Takushi maintains a private practice in Seattle.

Examining Board of Psychology Disciplinary Statistics July 2011 - June 2013

Psychologists

Active Licensed Psychologists - 2,584

Complaints Received - 180

Investigated - 92

Closed after investigation - 84

Legal Action Taken - 30

Summary Action - 2

The board received an increased number of complaints compared to the 2009-2011 biennium; this caused the number of authorized investigations to increase as well.

The number of cases resulting in action taken by the board varies slightly depending on the nature of the complaints received. There has not been a significant change from last biennium.

When there is an immediate danger to public safety, the board may summarily suspend respondent's license. The board summarily suspended one psychologist.

When a licensee is prohibited from practicing in another state because of unprofessional conduct, there is a mandatory summary suspension of the credential in Washington. The board has not had any of these cases.

How to avoid a complaint: Communicate and document all communication and treatment provided or recommended. These actions alone may not prevent a complaint being filed but will assist the board when evaluating whether a violation of law has occurred. Know your law. Laws can be located on our [website](#).

HIV/AIDS Reporting Requirements for Healthcare Providers

DATE: Winter 2015

FROM: Jack E. Bucknell, AAG

SUBJECT: **HIV/AIDS reporting requirements for health care providers: A brief overview¹**

The State Board of Health, local health departments, the State Department of Health, and other public health authorities collaborate to protect the health and well-being of the public by working to control outbreaks of communicable and certain other diseases. The State Board of Health is authorized under RCW 70.24.125, RCW 70.24.130 and RCW 43.20.050(2)(f) to establish by rule reporting requirements for sexually transmitted diseases, including Human Immunodeficiency Virus/ Acquired Immune Deficiency Syndrome (HIV/AIDS).

Chapter 246-100 WAC is the Board of Health's "communicable and certain other diseases" rule, which requires all health care providers licensed under Title 18 RCW (including psychologists) to, amongst other things, cooperate with public health officials during investigation of a case or suspected case of a notifiable condition or other communicable disease; cooperate with public health officials during an outbreak or suspected outbreak of illness; and to comply with chapter 246-101 WAC, the Board's notifiable conditions rule.

Under WAC 246-101-101 (1), the health care provider primarily responsible for diagnosing and/or treating a case of HIV/AIDS² must notify the local health department³ where the patient resides within three business days of the case or suspected case. See WAC 246-101-010 (36); WAC 246-101-101(1) and (3); and WAC 246-101-105(1)(a). Under the definition of "practice of psychology" in RCW 18.83.010, it's unlikely that licensed psychologists would ordinarily be responsible for notifying public health authorities of an HIV/AIDS diagnosis under WAC 246-101-101 and WAC 246-101-105 because they would not be responsible for diagnosing or treating the condition. However, "other health care providers in attendance, other than the principal health care provider, shall notify public health authorities [of notifiable conditions like HIV/AIDS] unless the condition notification has already been made." WAC 246-101-101(2). This subsection may trigger the reporting requirement for psychologists who are amongst the health care providers attending to a patient with a diagnosis of HIV/AIDS. Also see RCW 70.02.220 (2) and (7). WACs 246-101-105, 246-101-110, and 246-101-115 address how reports should be made.

A discussion about mandatory reporting from health care providers to third parties about sensitive patient information inevitably raises questions about violation of provider/patient confidentiality. The Examining Board of Psychology recognizes that, in general, the psychologist must safeguard confidential information obtained in the course of practice or other professional duties, and the

1. This article is not intended to provide legal advice or substitute for legal advice. It is intended to provide general information identifying selected Washington statutes, rules, and cases that may be relevant to this subject. Consult with an attorney for advice about issues which arise in your practice. The information provided is the author's opinion and is not the opinion of the Attorney General's Office.
2. Providers who diagnose or treat the notifiable condition are defined as "principal health care providers" in WAC 246-101-010(36) and are responsible for reporting the notifiable condition to the local health department.
3. WAC 246-101-105 (2) provides that the Department of Health should be contacted if the local health department is unavailable.

HIV/AIDS Reporting Requirements for Healthcare Providers - Cont.

disclosure of confidential information without the informed written consent of the client may only occur in compliance with the Uniform Health Care Information Act (UHCIA), chapter 70.02 RCW. Moreover, RCW 18.83.110 cloaks confidential communications between a client and a psychologist with the same privilege as afforded to confidential communications between attorney and client and physician and patient.

RCW 70.02.220 provides that health care providers may disclose information related to HIV/AIDS cases without patient authorization to named entities (including public health authorities) under certain circumstances, and the section requires disclosure of the identity of a person who has “investigated, considered, or requested a test or treatment for a sexually transmitted disease” to public health authorities to the extent the provider is required by law to report “or when needed to protect public health.” See RCW 70.02.220(7). The public health exception that mandates reporting without patient authorization is probably adequate to defeat any claim that the psychologist-patient privilege in RCW 18.83.110 prevents disclosures required under the notifiable conditions rules or under RCW 70.02.220. See e.g. *Petersen v. State*, 100 Wn.2d 421, 429 (1983) and *State v. Hyder*, 159 Wn.App. 234, 246-247 (2011) for discussions about the limits of the client-psychologist privilege.

A psychologist may face a scenario when a client has been diagnosed with HIV/AIDS, the case has been reported to the local health department by the client’s principal health care provider, but during psychological treatment the client reports incidents of intentional unprotected sexual encounters with unsuspecting partners. Is a psychologist required to make a report under these circumstances, and if so, to whom?

In Washington State, intentionally exposing another to HIV may be criminal assault. See *State v. Whitfield*, 132 Wn.App. 878 (2006) (conviction for Assault in the First degree for intentionally exposing others to HIV). While there is no general legal duty to protect another from the criminal acts of a third party, an exception to that rule exists if there is a special relationship between a party and the victim or the party and the criminal. *Volk v. Demeerleer*, 184 Wn.App.389, 414-415 (2014).⁴ In the *Volk* case, the court determined that a mental health professional treating a voluntary outpatient has a duty of care to those “foreseeably endangered” by the patient’s mental health problems. *Id at 426* (... We conclude the *Petersen*⁵ duty applies in our case). The *Volk* court also determined that neither RCW 70.02 nor the patient-physician privilege overcame the duty to protect third parties.

Based on Washington case law, a psychologist who learns a client is exposing others to HIV probably has a legal duty to those “foreseeably endangered” by the patient’s conduct. Notifying the local health department where the patient resides about the patient’s conduct would likely trigger action by public health authorities who are authorized to counsel people with HIV/AIDS and those who may have been exposed to the virus. A psychologist who made no report or took no action in response to receiving information that a client may be purposefully spreading a serious communicable disease could face financial liability as well as professional discipline.

4. *Volk* is currently under review by the Washington State Supreme Court. The WSPA has submitted an “Friend of the Court” brief in the case related to the applicability of chapter 71.05 RCW under the facts like those found in the *Volk* case. Oral Argument was held on November 17, 2015 and may be seen on TVW.

5. *Petersen v. State*, 100 Wn.2d 421 (1983) is the Washington State case that adopted an expansive reading of the famous Tarasoff “duty to warn” case, which arose in California. .

Board Staff Contact Information

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[Kim-Boi Shadduck](#), Program manager

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[Board Website](#)

The board is made up of seven psychologists and two public members. Members attend regular meetings, scheduled for one day on a Friday every six to eight weeks. Members are appointed by the governor for five-year terms. If you are interested in applying to be a part of the board, please complete an application on the governor's website at <http://www.governor.wa.gov/boards/application/application.asp> or contact Kim-Boi Shadduck at KimBoi.Shadduck@doh.wa.gov with questions.



It is the purpose of the board established in [RCW 18.83.050](#) to regulate the competency and quality of professional health care providers under its jurisdiction by establishing, monitoring, and enforcing qualifications for licensure, continuing education, consistent standards of practice, continuing competency mechanisms, and discipline.

2016 Board Meeting Dates

January 29, 2016

March 25, 2016

May 20, 2016

July 22, 2016

September 23, 2016

November 18, 2016

