

Draft Meeting Agenda
South Dakota Board of Examiners of Psychologists
Video Conference
April 11, 2024 at 1:30 p.m. MDT / 2:30 p.m. CDT

The public is invited to attend the meeting via Microsoft Teams at the following link:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZWM1MjAzMjEtZTRIOC00NGEwLWlxNTQtNWVmYzAwZTNIYWRm%40thread.v2/0?context=%7b%22Tid%22%3a%22e69efb98-56ef-4797-a76b-e1ec658a639c%22%2c%22Oid%22%3a%22ee0a24e7-6d2c-4495-ade5-4377098865d2%22%7d

If members of the public would like to be sent the Microsoft Teams invitation to the meeting instead of using the above link, please contact the Board office prior to the meeting at office@sdlicensing.com.

Member Listing:

1. Thomas Stanage, Ph.D., President
2. Matthew Christiansen, Ph.D., Vice-President
3. Trisha Miller, Ph.D., Secretary
4. Jeffrey Ellison, Psy.D., Member
5. Rosalie Ball, Ph.D., Member
6. Robert Overturf, Lay Member
7. Brian Roegiers, Lay Member

Purpose: The Board protects the health and safety of the consumer public by licensure of qualified persons, enforcement of the statutes, rules and regulations governing the practice of psychology, including the appropriate resolution of complaints.

1. Call to Order/Welcome and Introductions-Stanage
2. Roll Call-Stanage
3. Conflicts to declare
4. Corrections or additions to the agenda
5. Approval of the agenda
6. Public Testimony/Public Comment Period - 1:35 p.m. MDT / 2:35 p.m. CDT
7. Approval of the Minutes from January 12, 2024
8. FY Financial Update
9. PSYPACT Update
10. PSYPACT Commissioner
11. Other Legislative Updates
12. ASPPB Mid-Year Meeting- April 25-28, 2024
13. Schedule Next Meeting
14. Executive Session-Pursuant to SDCL 1-25-2
 1. Complaints- if any
 2. Applicant Oral Examinations:
 - a. #744
15. Applicant Approval

16. Any other business coming in between date of mailing and date of meeting
17. Adjourn

DRAFT

SOUTH DAKOTA BOARD OF EXAMINERS OF PSYCHOLOGISTS
BOARD MEETING MINUTES
Teleconference/Video Conference
January 12, 2024

Members Present: Thomas Stange, Ph.D., (President); Matthew Christiansen, Ph.D. (Vice President); Trisha Miller, Ph.D., (Secretary); Rosalie Ball, Ph.D., Member; Jeffrey Ellison, Psy.D.; Robert Overturf, Lay Member; and Brian Roegiers, Lay Member

Members Absent: None.

Others Present: Brooke Tellinghuisen Geddes, Executive Administrator; Carol Tellinghuisen, Administrative Assistant; Greg Tishkoff, DSS Legal Services – Board Counsel; Tracy Mercer – DSS Special Projects Coordinator

Call to Order/Welcome and Introductions: Stange called the meeting to order at 7:32 am CST.

Roll Call: Tellinghuisen Geddes called the roll. A quorum was present (Stange, Christiansen, Miller, Ball, Ellison, Overturf, and Roegiers). All members were present.

Corrections or Additions to the Agenda: None.

Approval of the Agenda: Ellison motioned to approve the agenda as presented; Overturf seconded the motion. Motion carried on unanimous vote of board members; none absent.

Public Testimony/Public Comment Period (9:34am CST / 8:34am MST): None.

Approval of Minutes from September 8, 2023 Meeting: Tishkoff requested an amendment to the September 8, 2023 meeting minutes, desiring the second to last sentence in the PSYPACT Discussion/Financial Impact section to read "cites a capped fee of \$350 for licensure" instead of "cites a capped fee of \$300 for licensure." Roegiers motioned and Christiansen seconded, to approve meeting minutes with this amendment made as Tishkoff requested. Motion passed unanimously; none absent.

FY Financial Update: Tellinghuisen Geddes reported 2023 year-end financials of \$66,481.92 for year-end revenue, \$63,110.19 for year-end expenditures, and \$128,978.02 cash balance, reported that as of November 30, 2023, revenue was at \$9,258.72, year-to-date expenditures were at \$34,332.30, and cash balance was at \$108,094.35. Christiansen motioned to accept the financial report as read; Ellison seconded. Motion passed unanimously; none absent.

Election of Officers: Ellison motioned to keep the current slate of officers in place for the board, wherein Stange would remain Board President, Christiansen would remain Board Vice President, and Miller would remain Board Secretary. Overturf seconded the motion. Motion passed unanimously; none absent.

PsyPACT Legislation – Fee Increase: Tishkoff made the board aware there have been a number of instances in which concern has been expressed by the Board staff and legal counsel to legislative entities desiring to move forward with PsyPACT in South Dakota, primarily due to the primary concern of the anticipated revenue fall for this board due to likely non-renewed licenses of those current licensees who reside outside South Dakota. Tishkoff reported DSS initially suggested there be a statute (3627A-24)

change to allow an increase from the current \$350 annual license fee cap to a \$600 cap, but pushback from the Governor's office was received. At that point, DSS resubmitted the suggestion, this time suggesting an increased cap to \$500 but this was met with another rebuke stating Governor Noem does not support increases in licensure fees or licensure renewal fees. As a result, legislation to implement PsyPACT in South Dakota has been introduced but Tishkoff stated he was not aware of a date specified for it to be heard by the Health & Human Services Committee yet, though he suspects that may occur on January 18, 2024. Tellinghuisen Geddes stated she will be present but will not speak on it. Tellinghuisen Geddes did make the board aware the Social Work Compact was proposed recently and it passed unanimously. Stanage stated more definitively that he had heard the PsyPACT proposed legislation will indeed be heard on January 18, 2024. Tellinghuisen Geddes and Tishkoff both made the board aware that despite the financial concerns expressed, SD DSS is in support of PsyPACT; Tishkoff stated the legislative body is treating the financial concern as speculative. Miller cited recent PsyPACT implementations by nearby states should provide us with some idea of what may occur here in SD, though their situations with out-of-state licensees may be different due to geographic location of our biggest cities being on our border with other states. Tellinghuisen Geddes reported knowledge that Wyoming lost 16 licensure renewals in the first year following enactment of PsyPACT. Stanage reported that it may simply take showing our budget being low once it is enacted. Tishkoff agreed, explaining his perception that this legislation is moving forward regardless of financial impact to this board and that perhaps once this board has been operating under PsyPACT enactment for a year or two and can show actual financial impact rather than what the legislature currently sees as speculative data, that the board's financial impact may be taken more seriously. Tellinghuisen Geddes did make the board aware she spoke with ASPPB's PsyPACT director and was told psychologists are being encouraged to keep their individual state licenses.

Other Legislative Updates: Tishkoff also made the board aware of SB57, proposed legislation that could impact all boards, and pertains to creating uniform procedures for considerations of the individual aspects of convicted criminals who apply for licensure. The legislation proposes that criminal histories and convictions be considered in how their past relates to the career field they are applying for as well as creating a mechanism for when an adverse decision would be made with regard to licensing/relicensing the individual and the legislation cites specific steps to take. Tishkoff stated the bill appears unclear with regard to how a person already licensed could have an adverse action put on them based on their criminal history. Tellinghuisen Geddes also questioned this, as the complaint would have to be issued beforehand and this puts a lofty burden on the board to determine if a person had been rehabilitated or not prior to licensure; Stanage voiced agreement and inquired further. Tishkoff clarified that the proposed bill requires a board to determine how long their preliminary opinion that an individual is not ready for licensure based on their criminal history would stand and his opinion is that is a 'hefty burden.' Miller inquired if these concerns about criminal history holding persons back from licensure are coming from a particular career field, as this has not been a concern for our board. Tellinghuisen Geddes stated recalling a similar bill proposed last year and Tishkoff stated this was the case, though it was not as specific, and read, for example, wording from the current bill proposal which states the agency must specify the length of time for which the agency considers the decision binding, if any, and the ruling must be available for inspection by the public. Tishkoff then made the group aware DSS has decided no bill analysis is warranted as of yet, but his understanding is that the Legislative Task Force is monitoring it; Mercer agreed, stating this is her understanding as well.

ASPPB Annual Meeting, Cleveland, OH, held September 27-October 1, 2023 - Miller: Miller attended the most recent ASPPB meeting, held in Cleveland, OH this fall. Miller made board members aware of several topics discussed at the meeting:

- 1) Regulation of Master's level training and licensing – Miller made board members aware it appears concrete that master's level licensure nationwide will occur, but the issues currently are in considering what the training should include for such licensure and what the individual's title would be (e.g., master's level psychologist, psychologist assistant, etc.).
- 2) Continuing Professional Development (CPD) vs. Traditional Continuing Education (CE) – Miller explained that psychologists in some jurisdictions have voiced concerns that the traditional CE model fits the learning style it was originally implemented for (white males) but is not the best learning model for others. Miller explained continuing professional development to involve more flexibility in what is "counted" for ongoing learning versus the must-have-a-certificate model of the traditional continuing education format. The CPD model has been implemented in some Canadian jurisdictions with reported success, but the majority of jurisdictions continue to have the CE model implemented.
- 3) Doctoral competencies & Re-specialization – There were presentations on licensure involving psychopharmacology, for example, and the requirements that differ across jurisdictions for certain specializations that have been enacted legislatively in those jurisdictions.

Stange inquired if EPPP-2 was discussed. Miller stated it was not a major focus but that data is being collected and analyzed on the first groups to take it and that the jurisdictions continue to express the cost issue with the addition of the second exam.

ASPPB Mid-Year Meeting – April 25-28, 2024 (Boston, MA) and ASPPB Annual Meeting – October 30-November 3, 2024 (Houston, TX): Board staff and Stange stated the importance of having a representative attend ASPPB meetings, as small states' vantage points tend to be easily overlooked if not voiced. Miller reiterated this and stated willingness to attend if others are not able to do so. Tellinghuisen Geddes encouraged all to look at their schedules and make the board office aware if able and desire to attend either of these upcoming meetings.

Schedule Next Meeting: Stange proposed an in-person meeting for the next meeting, as the group would like to celebrate the retirement of Carol Tellinghuisen. After group discussion, the next board meeting was tentatively set for Thursday, April 11, 2024 at 1:30pm MDT at The Lodge in Deadwood. Tellinghuisen-Geddes will look into the availability of The Lodge and make members aware of that availability so details can be confirmed.

Tishkoff and Mercer left meeting prior to executive session.

Executive Session – Pursuant to SDCL 1 – 25 – 2:

Christiansen motioned and Miller seconded to enter executive session at 10:27am CDT/9:27am MDT for purpose of completing a single Orals Examination (Applicant #727) and discussing the Executive Secretary Contract Renewal. There are no current active complaints. Motion carried unanimously; none absent.

Stange declared end of Executive Session at 8:55am CDT/9:55am MDT.

Vote on Executive Secretary Contract Renewal: Miller motioned to approval the renewal as presented, with no changes from the past contract. Christiansen seconded the motion. Motion carried unanimously; none absent.

Applicant Approval: Miller motioned to approve applicant #727 be approved for licensure per passing of the orals examinations today, pending any outstanding licensure requirements that are applicable. Ellison

seconded, to approve applicant #727 for licensure, pending any outstanding licensure requirements to complete. Motion carried unanimously, with no board members absent.

Other Business: None.

Adjourn: Motion to adjourn was made by Overturf; seconded by Ellison. Stange adjourned meeting at 8:56am CST / 9:56am MST following unanimous vote to do so (no board members absent).

Respectfully submitted,

Trisha T. Miller, Ph.D.
Secretary

1-27-1.17. Draft minutes of public meeting to be available--Exceptions--Violation as misdemeanor. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

BOARD OF PSYCHOLOGY EXAMINERS
 REVENUE SUMMARY
 FOR MONTH ENDING 02/29/24

COMP	ACCOUNT	YEAR	BDGT	GRANT	CENTER	FUND	SUB	FISCAL	FISCAL	FISCAL	YTD	MTD
6503	4920045	0	0		0892000	654	2024	08	08		AMOUNT	AMOUNT
					0892000	654	2024	08	08		\$ 2,358.72	\$ -
					0892000	654	2024	08	08		\$ 10,050.00	\$ 300.00
											\$ 12,408.72	\$ 300.00

BOARD OF PSYCHOLOGY EXAMINERS
CASH CENTER BALANCE
FOR MONTH ENDING 02/29/24

COMP	ACCOUNT	BDGT YEAR	GRANT YEAR	CENTER	FUND SRC	SUB FUND	FISCAL YEAR	FISCAL MONTH	CASH BALANCE
6503	1140000			0892000	654		2024	08	\$ 97,649.21
									\$ 97,649.21





Reducing Regulatory Barriers. Increasing Access to Mental Health Care.

To Whom it May Concern:

For appointments to the PSYPACT Commission, PSYPACT legislation notes the following in Article X.B.1, this representative shall be empowered to act on behalf of the Compact State and shall be limited to:

1. Executive Director, Executive Secretary or similar executive; OR
2. Current member of the State Psychology Regulatory Authority of a Compact State; OR
3. Designee empowered with the appropriate delegate authority to act on behalf of the Compact.

In appointing your Commissioner, please consider the following:

1. **Availability of your Representative:** It is expected that there could be significant involvement with face-to-face meetings, conference calls, committee assignments and emails as the governing documents and implementation components for PSYPACT are created and updated.
2. **Ongoing Participation:** The Commission must meet at least once a year. As the Commission is an ongoing entity, providing continuity of representation will make this a more cohesive and functional group.
3. **Knowledge of State Statutes/Regulations and PSYPACT Legislation:** It will be helpful to have a working knowledge of your State Psychology Regulatory Authority Statutes, Regulations, and PSYPACT in order to assist the Commission in the development of governing documents and to guide the decision-making process regarding specific components of PSYPACT.
4. **Conflict of Interest:** A state should consider if any real or potential conflict of interest exists when selecting a Commissioner.

Please find the PSYPACT Commission Registration Form attached with this letter. Please complete the registration form and return it along with a formal letter of appointment signed by the appropriate representative of the State Psychology Regulatory Authority to me at jorwig@asppb.org. We look forward to working with you on this important initiative for the profession of psychology.

Sincerely,

Janet Orwig, MBA, CAE
Executive Director, PSYPACT
(678) 216-1188
jorwig@asppb.org

- 1st meeting is July 15, 2024 - virtual
- 2nd meeting is Nov. 18 & 19 in DC but will have virtual option.

Psychology Interjurisdictional Compact (PSYPACT) www.psypact.org

210 Market Road • PO Box 849 • Tyrone, Georgia • 30290 • (678) 216-1175 •

24.360.13 99th Legislative Session 57



2024 South Dakota Legislature

Senate Bill 57**ENROLLED**

AN ACT

ENTITLED An Act to create uniform procedures for consideration of criminal histories and convictions in professional or occupational licensure.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 36-1C-1 be AMENDED:

36-1C-1. Terms used in this chapter mean:

- (1) "Administrator," the executive director, executive secretary, or other person designated as being responsible for a professional or occupational licensing's board, commission, or agency operation;
- (2) "Adverse action," a final decision by an administrator or agency to deny, condition, discipline, fine, limit, suspend, revoke, refuse to renew, or otherwise withhold a license. The term does not include emergency or temporary action against an applicant or licensee;
- (3) "Agency," a professional or occupational licensing board, commission, or agency set forth in title 36;
- (4) "Conviction," a plea of guilty, a verdict of guilty by a jury, a finding of guilty, or a plea of nolo contendere or a similar plea which is accepted by a court;
- (5) "Criminal history," any criminal conviction, sentence, or judgment against a licensee or applicant;
- (6) "Complaint," an allegation of a violation of the laws or rules of a professional or occupational licensing board, commission, or agency set forth in title 36;
- (7) "Investigative committee," one or more persons employed or contracted by a professional or occupational licensing board, commission, or agency set forth in title 36 to review and investigate complaints; and

- (8) "License," any certification, license, permit, or other authorization related to the practice of any profession or occupation regulated under title 36.

Section 2. That chapter 36-1C be amended with a NEW SECTION:

An agency or administrator may not take adverse action against an applicant or licensee, with regard to a license as defined in § 36-1C-1, based on the individual's criminal history, except as provided in this chapter. Except as provided in section 7 of this Act, this Act supersedes any conflicting provisions for the affected profession and occupation unless otherwise stated.

An agency or administrator may take adverse action against an applicant or licensee upon proof that the applicant or licensee has been convicted of a crime for which the conviction directly relates, in the discretion of the agency or administrator, to the profession or occupation for which the license is sought or held.

To determine whether a conviction directly relates to the profession or occupation, the agency or administrator must consider:

- (1) The nature and seriousness of the crime;
- (2) The relationship of the crime to the purposes of regulating the profession or occupation for which the license is sought or held;
- (3) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and
- (4) Any personal statement of an applicant or licensee regarding whether each crime directly relates to the profession or occupation for which the license is sought or held.

If the agency or administrator determines that the crime directly relates to the profession or occupation being licensed, the agency or administrator must also consider whether an applicant or licensee has been rehabilitated to the extent that the person no longer poses the kind of risk to the profession or occupation associated with that type of conviction.

Section 3. That chapter 36-1C be amended with a NEW SECTION:

An agency or administrator may not take adverse action against an applicant or licensee based on arrest or court records which have been sealed, expunged, or pardoned. An agency or administrator may not require an applicant or licensee to disclose arrest or court records which have been sealed, expunged, or pardoned.

Section 4. That chapter 36-1C be amended with a NEW SECTION:

An agency or administrator may require an applicant to disclose on an application for licensure whether the applicant has been convicted of certain types of crimes which directly relate to the profession or occupation. An agency or administrator may require a licensee to disclose on any renewal application for licensure whether the licensee has been convicted of certain types of crimes which directly relate to the profession or occupation since the last renewal cycle. An agency or administrator may require the applicant or licensee to provide additional documentation of any conviction disclosed by the applicant or licensee. An agency or administrator may take adverse action against an applicant or licensee based on a failure to disclose a conviction as required by this section or to provide requested documentation of any conviction disclosed by the applicant or licensee.

Section 5. That chapter 36-1C be amended with a NEW SECTION:

If an agency or administrator intends to take an adverse action against an applicant based on an applicant's criminal history, as provided in this chapter, the agency or administrator must provide written notice to the applicant of the agency's or administrator's intent to take adverse action and that, unless the applicant requests a hearing in writing within twenty calendar days, the administrator may take the adverse action without a hearing. If the applicant requests a hearing, notice and a contested case hearing under § 1-26-27 are required.

If an agency or administrator intends to take an adverse action against a licensee based on the licensee's criminal history, as provided in section 2 of this Act, the administrator must comply with the complaint procedure outlined in this chapter.

During any requested hearing, the applicant or licensee shall have the right to present evidence demonstrating that the crime or crimes at issue does not directly relate to the relevant profession or occupation and any evidence of the individual's rehabilitation from the crime or crimes at issue such that the individual no longer poses the kind of risk to the profession or occupation normally associated with the type of conviction. The agency shall consider this evidence in making its determination.

The applicant or licensee shall have a right to a judicial review of the final decision pursuant to § 1-26-30.2. An applicant or licensee may waive the right to a contested case hearing as part of any final resolution of the licensure matter.

Section 6. That chapter 36-1C be amended with a NEW SECTION:

Any prospective applicant for a license may petition an agency for a declaratory ruling, as provided in §§ 36-1C-14 to 36-1C-16, inclusive, seeking a

ruling on whether the applicant's criminal history would result in an adverse action against a prospective license application by the agency. In any adverse declaratory ruling, the agency may specify the length of time for which the agency considers the decision binding, if any. Any ruling issued under this section is not required to be filed with the director of the Legislative Research Council for publication in the Administrative Rules of South Dakota. The agency must retain a copy of the ruling for the length of time for which the agency considers the decision binding, if any, and the ruling must be available for inspection by the public upon request.

Section 7. That chapter 36-1C be amended with a NEW SECTION:

Nothing in this chapter may be construed to override, supersede, or invalidate any compact or agreement already in place with regard to the regulation of any profession or occupation. Nothing in this chapter may be construed to limit or change any basis for an agency or administrator, in statute or administrative rule, to take adverse action against an applicant or licensee not based on the criminal history of an applicant or licensee as provided in this chapter. Nothing in this chapter may be construed to supersede any authority for an agency to require an applicant or licensee to submit to a background check.

An Act to create uniform procedures for consideration of criminal histories and convictions in professional or occupational licensure.

I certify that the _____ Received at the attached Act originated in the: Executive Office this _____ day of _____, 2024 at _____ M.

Secretary of the Senate _____ President of the By _____ for the Governor

Senate Attest: Secretary of the Senate Speaker of the House Attest: Chief Clerk Senate Bill No. 57 File No. _____ Chapter No. _____

The attached Act hereby approved this _____ day of _____, A.D., 2024 Governor _____

STATE OF SOUTH DAKOTA,

ss. Office of the Secretary of State Filed _____, 2024 at _____ o'clock ___ M. Secretary of State By Asst. Secretary of State