

Louisiana State Board of Examiners of Psychologists
BOARD MEETING MINUTES
Monday, May 6, 2019

FINAL APPROVED: July 21, 2019

The meeting of the Louisiana State Board of Examiners of Psychologists (Board or LSBEP) was noticed and agenda posted on, Wednesday, Friday, May 3, 2019 and Revised on May 5, 2019. Dr. Jesse Lambert called the meeting to order at 5:43 p.m. on Monday May 6, 2019 at 4334 S. Sherwood Forest Blvd., Suite C-150, Baton Rouge, LA 70816. Present were Board Members, Drs. Jesse Lambert, Leah Crouch, Greg Gormanous and Amy Henke; Executive Director, Jaime T. Monic; Attorney Courtney P. Newton and Attorney Amy Groves Lowe.

Dr. Lambert opened the meeting by reading the Board's Declaration of Purpose.

Dr. Gormanous requested to enter his statement of service for the record as follows: *"My serving on LSBEP is to ensure that consumers of psychological services are protected against any unqualified, harmful and unauthorized practice, application or use of psychology. My service is as a consumer advocate and educator. My service is not as a market participant."*

Dr. Gormanous moved to approve the agenda. The motion passed by unanimous roll call vote as follows: Lambert – YEA, Crouch– YEA, Henke – YEA, Gormanous- YEA

The Board moved into discussion of the **2019 Legislative Session** to review legislation potentially impacting the administrative and functioning of the board with directives on addressing concerns as follows:

1. HB423 EMERSON - LICENSING: Repeals the ability of a professional board or commission to revoke an occupational or professional license for failure to pay student loans. The board discussed the impacts that this proposed legislation will eliminate current legislation which prohibits LSBEP from issuing a license to an individual who is in default of a student loan and mandates that the LSBEP revoke the license of a licensee for failure to pay student loans. No negative impacts were identified; the board will continue to watch this item.

2. HB503 EDMONDS - LICENSING: Provides relative to licensing qualifications. The board discussed the potential of this legislation to negatively impact this agency's ability to carry out its mission of public protection where it states that no person shall be disqualified from pursuing, practicing, or engaging in any occupation for which a license is required solely or in part because of a prior criminal record, unless the crime for which the person was convicted directly relates to the duties and responsibilities for the licensed occupation, is a crime of violence, or is a sex offense. Implementation will require:

- Additional staff and result in increased expenditure of board funds.
- Revision to existing licensing requirements to explicitly list the specific criminal convictions that may disqualify an applicant from receiving a license.
- Prohibits LSBEP from using vague or generic terms including, but not limited to, "moral turpitude" and "good character" or consider any arrest without a subsequent conviction.
- Changes processes, procedures, and the burden of proof for denial of licensure.
- With the exception of crimes of violence and sex offenses, disqualification shall not last longer than 5 years since last conviction or release from prison, whichever occurs later.

- Individual with criminal history may apply to the board at any time to learn whether the criminal history will disqualify him from obtaining a license. The board has 30 days to review and inform applicant of standing. Max \$25.00 application fee.

The LSBEP will monitor and educate relative to perceived impacts.

HB388 MIGUEZ - PUBLIC RECORDS: Prohibits disclosure of certain personal information in public records. The board discussed the impacts that this proposed legislation as it will codify current agency practices, and add a notice requirement. No negative impacts were identified, the board will continue to watch this item.

HB515 GAROFALO - LIABILITY: Provides relative to suits against the state and state officials and employees. The board discussed the impacts that this proposed legislation will have on the LSBEP, where it provides that if the attorney general concludes that the covered individual was not engaged in criminal conduct, then the attorney general shall provide a defense to the covered individual. No negative impacts were identified, the board will continue to watch this item.

HB554 GAROFALO - PUBLIC RECORDS: Provides relative to public records. The board discussed concerns that this proposed legislation will negatively impact this agency's ability to carry out its mission of public protection as it may result in unnecessary and additional fees to individuals requesting public records requests, inefficient use of employees' time, and the need of additional computer equipment and software to allow immediate access to electronic records. In addition, there is concern that provisions of this proposed legislation may impede the ability of the LSBEP to ensure that confidential information exempt from the public records act, is redacted prior to review and production as follows:

- It will eliminate the ability of the custodian of records from making any inquiry to the requestor thereby preventing questions from the custodian of records intended to narrow the scope of a public records request to relevant records.
- It will prohibit the custodian from reviewing, examining, or scrutinizing any copy, photograph, or memoranda accessed by the requestor.
- It mandates that the individual mandating the public records request determines the format of production of documents.
- It will put a cap on the civil penalty for non-compliance and directs the penalty of the custodian to be *in solido* with the LSBEP.

The LSBEP will continue to monitor and educate relative to perceived impacts

SB29 CORTEZ - FEES/LICENSES/PERMITS: Provides relative to professional and occupational licensing boards and commissions. The board discussed potential impacts of this proposed legislation and the prohibition it will create from entering into a consent decree with a licensee, permittee, or certificate holder if such decree contains a nondisparagement clause. Prohibits the initiation of any disciplinary action against a licensee, permittee, or certificate holder for providing testimony or records to a legislative body. Since the LSBEP neither utilizes nondisparagement clauses in board orders nor disciplines licensees for exercising rights under the First Amendment, it was determined that there would be no negative impact. The board will continue to monitor this legislation.

SB66 RISER - PUBLIC MEETINGS: Provides relative to open meetings of public bodies. The board discussed the impacts of this proposed legislation as it is related to civil penalty. Since the board conducts

its business lawfully, no negative impacts or concerns on this agency's ability to carry out its mission of public protection are anticipated as a result of this legislation.

SB97 W.BISHOP - CRIMINAL RECORDS: Provides for "clean slate" limited access to a person's criminal history record relative to certain misdemeanors. The board discussed concerns that this proposed legislation will negatively impact this agency's ability to carry out its mission of public protection as it will: Enact additional sections to the Public Records Law specifically exempting information contained on Criminal History Records from disclosure; Provides that a board may review an applicant's convictions, but may not rely solely on a conviction to preclude the issuance of a license or certification; Prohibits the board from denying licensure based on (1) records of arrest if there is no conviction based on the arrest; (2) convictions that have been expunged; (3) convictions for which the person has received a pardon from the governor; and (4) convictions that do not relate to the applicant's suitability for the license, certificate, registration, or permit; and, Allow the board to deny licensure based solely on (1) the applicant or licensee's conviction of a felony; or (2) the applicant or licensee's conviction of a misdemeanor that relates to the trade, occupation, or profession for which the license, certificate, registration, or permit is sought or has been granted.

The LSBEP will continue to monitor and educate relative to perceived impacts.

SB98 PRICE- CRIMINAL RECORDS: Provides relative to expungement. The board discussed concerns that this proposed legislation will negatively impact this agency's ability to carry out its mission of public protection as it will lessens the amount of time after which a convicted felon can apply to have his record expunged; 5 years after completion of sentence if no other convictions.

LSBEP will continue to monitor and educate relative to perceived impacts.

B159 DONAHUE - LEGISLATIVE AUDITOR: Provides for review and reports on cost recovery budget request forms completed by certain budget units. The board discussed the impacts of this proposed legislation as it will delete references to performance audits; provide that the legislative auditor shall review the cost recovery budget request forms completed for each budget unit in the executive branch of state government as provided in present law and make recommendations related to increasing or decreasing agency fees; and provides that the legislative auditor is to report his findings to the Joint Legislative Budget Committee. No negative impacts were identified, the board will continue to watch this item.

SB187 MILKOVICH - STATE AGENCIES: Provides relative to the conduct of adjudication hearings involving and the re-creation of certain state boards and commissions which issue licenses, permits, or certificates. The board discussed concerns that this proposed legislation will negatively impact this agency's ability to carry out its mission of public protection as it will, in part: Grant a licensee the right to have a formal adjudication moved to the division of administrative law to be decided by an administrative law judge; Change current notice requirements and mandates that notice must contain a "detailed description of the complaint sufficient that the licensee has a clear understanding of the accusations being made against him and by whom."; Dictate a very specific process for investigations that includes, in part, an investigation in which an investigator, a term not defined in the bill, is unable to communicate with the executive director or members of the regulatory board and controls fully the initial investigation without oversight; the executive director, not the board or board member, has all power and authority to review the investigation and proceed with formal disciplinary action; no communication between the executive director and investigator during the investigative process unless the licensee is present; the utilization of a hearing officer or other independent adjudicator without economic bias; and a board investigative file that the licensee may review at any time.

The board will monitor and educate relative to the impacts of this legislation.

EXECUTIVE SESSION:

Dr. Gormanous moved to enter Executive Session pursuant to LSA R.S.42:17.A(4) to receive legal advice related to appropriately responding to disparaging and inaccurate information disseminated publicly, to legislators, and to licensees as the matters are also related to P16-17-14C and P17-18-11C as well as matters pertaining to the following litigation: Eric R. Cerwonka v. Louisiana State Board of Examiners of Psychologists Suit No.: 656,587, Section 24 (ON APPEAL in the LA First Circuit); and Eric R. Cerwonka v. Louisiana Board of Examiners of Psychologists and Jaime Monic Civil Action No. 6:17-CV-1095. The Board discussed the motion. The motion passed by unanimous roll call vote as follows: Lambert – YEA, Crouch– YEA, Henke – YEA, Gormanous- YEA

By motion of Dr. Crouch, the Board unanimously agreed to close executive session. The motion passed by unanimous roll call vote as follows: Lambert – YEA, Crouch– YEA, Henke – YEA, Gormanous- YEA

Dr. Gormanous moved in favor of reinstating the quarterly newsletter, with notification to licensees of the new issue and subsequent voluntary distribution list to disseminate factual information to licensees and other interested persons. The first issue to be published as soon as possible to report the **anticipated or expected** legislative impacts of the 2019 Regular Session; and report on board complaint processes; productivity and outcomes. The Board discussed the motion. The motion passed by unanimous roll call vote as follows: Lambert – YEA, Crouch– YEA, Henke – YEA, Gormanous- YEA

Dr. Gormanous moved in favor of sending Attorney Amy Groves Lowe to educate before the Senate Committee on Commerce regarding the impacts of SB 187. The Board discussed the motion. The motion passed by unanimous roll call vote as follows: Lambert – YEA, Crouch– YEA, Henke – YEA, Gormanous- YEA

No further motions being offered, Dr. Lambert closed the meeting at 7:30PM.