February 9, 2023

Via Electronic Submission Only

Senator Patrick Page Cortez, President
Senate Health and Welfare Committee
apa.senatepresident@legis.la.gov

Senator Fred H. Mills, Jr., Chairman
Senate Health and Welfare Committee
apa.s-h&w@legis.la.gov

Representative Clay Schexnayder,
Speaker of the House
House Health and Welfare Committee
apa.housespeaker@legis.la.gov

Representative Larry Bagley, Chairman
House Health and Welfare Committee
apa.h-hw@legis.la.gov

RE:  Rule Summary Report, Title 46:LXIII. 601, 603, 803, 805, 806, 811, 905 and 4001 (Continuing Education, Exemptions and Fees)

Dear Senator Cortez, Senator Mills, Representative Schexnayder, and Representative Bagley:

Pursuant to La. R.S. 49:968(D)(1)(b), the Louisiana State Board of Examiners of Psychologists here by submits the following Summary Report and announces its intention to proceed with the final publication of rules, which Notice of Intent was first published in the Louisiana Register on November 20, 2022. A copy of the proposed rule is attached.

Prior to the publication of the Notice of Intent, the proposed rule was published on the Board’s website (https://lsbep.org/rule-making/); the Notice of Intent was forwarded to the Occupational Licensing Review Commission and the Board appeared before the Commission for oversight and approval to engage in rulemaking on May 13, 2022; the Fiscal Impact Statement was filed in accordance with R.S. 49:953 and approved on October 7, 2022; a Public Rules Hearing was held on Friday, December 16, 2022; and on January 19, 2023, the Board appeared before the Occupational Licensing Review Commission (OLRC) for a final review and to request permission to proceed with Rulemaking. The OLRC moved favorably.

Regarding the Public Hearing, written comments received prior to the hearing were read into the record and the Board requested oral comments from a member of the public who attended in person. Immediately following the hearing, the Board of Directors, devoted time and discussed most of the comments. Note that the Board filed 4 separate Notices of Intent and a detailed consolidated response to all of the comments is attached to this Summary Report titled “MEMORANDUM IN RESPONSE TO COMMENTS RECEIVED BY THE LSBEP DURING A PUBLIC RULES HEARING HELD ON FRIDAY, DECEMBER 16, 2022”
To summarize the comments that are pertinent to the proposed rules that are the subject of this Summary Report (*Continuing Education, Exemptions and Fees*): Comments were both in support and opposition to the rule changes. However, the majority of comments received were suggestions for improving rules and/or questions regarding roll out procedures and included:

- Objections to changing previous standards and automatic approvals;
- Questions regarding procedures for approval and authority;
- Questions about terminology used including a request to consider that the term Emeritus is the masculine form.

In response to the comments and questions received, the Board adopted one non-substantive change to utilize the term use “Emerit” in place of “Emeritus” throughout the rules to describe a fully retired licensee.

A copy of this report has been placed on the LSBEP website in accordance with La. 49:968(D)(1)(c). Please contact me if any additional information is required for your consideration.

Sincerely,

[Signature]
Jaime T. Monic  
Executive Director

cc: Catherine Brindley, Louisiana Register Editor, Office of the State Register

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**NOTICE:**

*LA R.S. 42:14.D. Public comments* – In accordance with LA R.S. 42:14.D., the LSBEP shall allow public comments at any point during a meeting of the LSBEP prior to action on an agenda item upon which a vote is to be taken. Individuals who wish to comment on a matter must sign in and state their intent to comment on a matter.

*La. R.S. 44:33.1* - In compliance with La. R.S. 44:33.1, the LSBEP hereby gives notice that information submitted to the LSBEP may become public record pursuant to the provisions of Louisiana Public Records Law, La. R.S. 44:1, et seq.
OFFICE OF THE STATE REGISTER INSERTION ORDER
Claiborne Building 1201 North Third Street Suite 3-220 Post Office Box 94095
Baton Rouge, LA 70804-9095 (225)342-5015 FAX (225)342-0284

(Submit a separate Insertion Order per document)

☐ EMERGENCY RULE ☐ NOTICE OF INTENT ☑ RULE ☐ POTPOURRI

REFER TO INSTRUCTIONS ON REVERSE SIDE

This is your authority to publish in the month of February, 2023, Louisiana Register the document indicated above.

Board of Examiners of Psychologists
Office/Board/Commission promulgating this document
Jaime T. Monic Executive Director

(name) (title)
Name and title of person whose signature will appear in the publication (at the end of the document)

Title 46:LXIII. Chapters 6, 8, 9, and 40
Continuing Education, Exemptions and Fees
Short descriptive listing for this document to be used in the Louisiana Register's Table of Contents/Index

Important: If submitting both an Emergency Rule (ER) and a Notice of Intent (NOI) to be published this month, AND if the rule text in the ER is identical to the rule text in the NOI, check here: ☐

Department of Health
Department under which office/board/commission is classified
Jaime T. Monic 225-295-8410 225-295-8412

(name) (phone) (fax)
Name, phone number, and FAX number of person to contact regarding this document

jaime.monic@la.gov
E-mail address of contact person

Title 46:LXIII. Chapters 6, 8, 9, and 40
File name

 Jaime T. Monic, Executive Director
Signature of Agency Head or Designee
Print Name and Title of Agency Head or Designee

CERTIFICATION OF AVAILABLE FUNDS
DOCUMENT #

LAGOV AGENCY:
I certify the availability of fiscal year 2022-23 appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

<table>
<thead>
<tr>
<th>Business Area</th>
<th>General Ledger</th>
<th>Cost Center</th>
<th>Grant</th>
<th>Fund</th>
<th>WBS</th>
<th>Internal Order</th>
<th>Functional</th>
</tr>
</thead>
</table>

NON-LAGOV AGENCY:
I certify the availability of fiscal year 2022-23 appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

Billing Contact Information:
Board of Examiners of Psychologists
Jaime T. Monic
Agency Name
jaime.monic@la.gov
Agency E-Mail Address for Billing

Per Page Charge $ + Revision Charge $ = TOTAL $
NOTICE OF INTENT

Department of Health
Board of Examiners of Psychologists

Continuing Education, Exemptions and Fees (LAC 46:62, 601, 603, 803, 805, 806, 811, 905, 3402, 3403, and 4001)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Examiners of Psychologists intends to adopt Sections 806 and 905 and amend Sections 601, 603, 803, 805, 811, 3402, 3403, and 4001 related to the continuing education, exemptions and fees in accordance with the Louisiana Licensing Law for Psychologist R.S. 37:2353.C(1), 37:2357.C(4), 37:2352(T), and the Administrative Procedures Act §968 and §971.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXIII. Psychologists
Subpart 1. General Provisions

Chapter 6. Fees
§601. Licensing Fees
A. Licensing Fees

<table>
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<tr>
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<tr>
<td>Application for License</td>
<td>$200</td>
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</tr>
<tr>
<td>Provisional License Renewal</td>
<td>$100</td>
</tr>
<tr>
<td>Initial Application and Renewal of Emeritus Status (Retired)</td>
<td>$100</td>
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<tr>
<td>Reinstatement of Lapsed License</td>
<td>Current Application Fee plus Current Renewal Fee</td>
</tr>
<tr>
<td>Processing Fees for Paper Renewals</td>
<td>$50</td>
</tr>
<tr>
<td>License Renewal Extension Request</td>
<td>$25</td>
</tr>
</tbody>
</table>

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.


§803. Requirements
A. Each psychologist is required to complete 40 hours or credits of continuing professional development within the biennial reporting period, which begins on July 1 and ends on June 30.
B. Within each reporting period, two of the required hours or credits of continuing professional development must be within the area of ethics or law in accordance with the limitations specified in §807.
C. Within each reporting period, two of the—required hours or credits of continuing professional development must be within the area of multiculturalism or diversity in accordance with the limitations specified in §807.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.


§805. Acceptable Sponsorship, Offerings and Activities
A. Only those CPD offerings and activities approved by the Board shall satisfy the requirements for licensure set forth in §803.
B. Acceptable CPD activities offered for credit by approved sponsors defined in this section and that meet the content criteria described in §801 of this Chapter are automatically approved by the Board.
C. The board will recognize the following as acceptable sponsors of the continuing education requirements:
1. accredited institutions of higher education;
2. hospitals and medical centers which have approved regional medical continuing education centers;
3. hospitals which have APA approved doctoral internship training programs;
4. international, national, regional, or state professional associations, or divisions of such
associations, which specifically offer or approve graduate or post-doctoral continuing education training;

5. American Psychological Association (APA) approved sponsors and activities offered by APA (including home study courses);

6. activities sponsored by the Board of Examiners of Psychologists; and

7. activities sponsored by the Louisiana Department of Health or its subordinate units;

D. The board will recognize the following activities offered by acceptable sponsors in Part C.1 above.

1. Workshops—live workshops offered for credit. Live workshops may be presented in-person or by video conference/virtual format.

2. Conference Workshops/Training Activities—Conferences are trainings lasting longer than one day (eight hours). Conference training may be presented in-person or by video conference/virtual format.

E. Sponsors of CPD approved under Part B of this Section may not advertise a CPD as board-approved or endorsed or purport that the CPD satisfies the licensure requirements set forth in §803.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.


§806. Board Approval of Proposed CPD Offerings and Activities; CPD Promotion and Advertisement

A. Any individual or entity may apply for board approval of a proposed CPD offering or activity as follows.

1. The individual or entity providing the proposed CPD offering or activity files a completed CPD Approval Application on the form provide by the board.

2. The individual or entity providing the proposed CPD offering or activity provides information sufficient to the board that the CPD meets requirements set forth under §801; and

3. Payment of the required application fee.

B. Board approval of a proposed CPD pursuant to Subsection E of this Section shall permit the individual or entity to offer the program one time. Subsequent offerings of the same activity shall require the individual or entity offering the CPD to submit an application for renewal of the approval on the form provided by the board with required renewal fee.

1. Upon receipt of written documentation of board CPD approval, the individual or entity providing the proposed CPD offering or activity may advertise as approved or endorsed by the Louisiana State Board of Examiners of Psychologists.

2. Course and activities approved by the board shall be posted on the board website and shall indicate the maximum number of credits which may be earned and the classification of the course.

C. CPD offerings and activities not approved by the board under Subsections B or E of this Section may generate acceptable CPD credits for licensees under the following circumstances:

1. The licensee submits a complete application for preapproval of the course or activity using the form provided by the board and payment of an application fee required under Chapter 6.

2. The course or activity submitted for approval shall only be considered for the licensee who submits the approval.

3. A licensee may not request approval of an activity after June 30 of their reporting year for the renewal of their license.

a. A provisionally licensed psychologist that fails to meet the CPD requirements by June 30 of their reporting year, including acceptable sponsorship, offerings and activities, shall be subject to the provisions of R.S. 37:2356.2.

b. A licensed psychologist that fails to meet the CPD requirements by June 30 of their reporting year, including acceptable sponsorship, offerings and activities, shall be subject to the provisions of R.S. 37:2357.A(2).

D. The licensee may choose to apply for preapproval of the following unsponsored activities. These activities shall be limited to 10 credits:

1. workshops/conferences without approved sponsor;

2. peer consultation and supervision. Acceptable consultation is regularly scheduled interactions with colleagues, licensed in a health care profession or other general applied psychology profession, in a structured and organized format. Examples include case consultation groups, journal clubs, research groups, and shadowing a colleague. Acceptable supervision is one-to-one general professional, specific case discussion, or skill training that is provided under Chapter 7 of this Part by a qualified supervisor. One hour of acceptable consultation or supervision equals one hour of credit. Documentation required to earn credit shall be a verification form providing evidence that it is a structured program of consultation with regularly scheduled meetings and showing the nature of the consultation, or in the case of supervision the supervised practice plan approved by the board; and The person providing the consultation, or facilitating the case consultation group, must attest, by signature, to the description of the program, number of hours met and that the verification form has been completed;

3. practice outcome monitoring—assessing patient/client outcomes via questionnaire(s) that is appropriate to the practice endeavor. One client equals one credit per reporting period. If requested, documentation required to earn credit shall be a verification form and a de-identified copy of the patient/client questionnaire;

4. professional activities—serving on an international, national, regional, or state psychological association board or committee; or board member of regulatory body related to the field of psychology. Professional activities shall not include lobbying activities. One year equals 10 credits;

5. registered attendance at conferences/conventions—attendance at a conference related to the field of psychology
or a conference, that aids in the licensee's professional development. One conference day equals one credit. This credit is separate from traditional continuing education units that may be awarded by an approved sponsor at said conference. A certificate of attendance is required;

6. academic courses—a graduate-level course related to the psychologist's discipline and practice, taken for credit from a regionally accredited university or one pre-approved by the board. One three-hour course or equivalent equals 20 credits; or, one registered audit, documented by the university, equals five credits;

7. instruction—preparation and teaching of a semester-long graduate or undergraduate course, related to psychology, in a regionally accredited institution; or continuing education workshop presentation. Credit can only be received the first time teaching or presenting the material:

a. credit hours for preparing and teaching a workshop shall be calculated at four times the credit granted attendees, divided by the number of presenters;

b. credit hours for teaching a university course shall be calculated at 10 times the number of credit hours awarded the students. Documentation required to earn credit shall be the course syllabus or brochure;

8. publications—author of an article for peer-reviewed publications or author, editor or co-editor of a book/book chapter related to the field of psychology. One article equals 10 hours; one book/book chapter equals 10 credit hours. Documentation required to earn credit shall include a copy of journal abstract or a copy of the publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49: 37:2357.

§811. Extensions/Exemptions

A. - C. ...

D. Licensees who meet the requirements for a reduced fee under R.S. 37:2354.E during the applicable reporting period and who are fully retired from the practice of psychology may be granted an exemption from continuing professional development requirements.

1. A licensee granted an exemption under this provision will be classified with the status "emeritus" and may use the title "psychologist emeritus, retired".

2. A licensee granted emeritus status under this provision shall be prohibited from engaging in the practice of psychology; rendering psychological services in any form; and/or engaging in any activity that might be construed as the practice of psychology within the state of Louisiana.

3. A psychologist emeritus, retired, is subject to license renewal in accordance with the provisions of Chapter 9 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.


Chapter 9. Licensees

§905. Psychologists Emeritus: Retired

A. A psychologist emeritus, retired is eligible to renew their emeritus status license provided they submit such renewal application along with the annual renewal fee at the reduced rate established under Chapter 6 of this Part; and are fully retired from the practice of psychology, not rendering psychological services in any form, and are not engaging in any activity that might be construed as the practice of psychology within the state of Louisiana.

B. A psychologist emeritus, retired is eligible to renew their current license until July 31 of each year upon submission of the required renewal fee and renewal application form and on showing that the licensee:

1. has been a licensed psychologist for a minimum of 20 years;

2. has no outstanding complaints or ethical violations;

3. is subject to the LSBEP ethics code;

4. is retired from the practice of psychology;

5. is only able to use the title psychologist emeritus: retired;

6. is not required to complete CPD unless they want to reinstate as specified in Subsection C below.

C. A psychologist emeritus, retired is eligible to reinstate their status to Licensed Psychologist and resume the independent practice of psychology in Louisiana upon submission of a reinstatement application for licensure including the required reinstatement fee and fulfillment of all continuing professional development requirements as defined under this Chapter, provided they are not in violation of any of the provisions of the Louisiana Revised Statutes, Title 37 Chapter 28. Psychologists.

D. A psychologist emeritus returning to full practice after five or more years shall be subject to an oral examination prior to reinstatement to the status of licensed psychologist.

E. A licensee who renews their emeritus status shall be exempt from continuing professional development requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49: 37:2357.

Subpart 2. Licensed Specialists in School Psychology

Chapter 34. Specialist Programs in School Psychology

§3402. Program Requirements—Supervised Practica Prior to Internship

A. - A.4. ...

5. close supervision of students by program faculty and qualified practicum supervisors, including appropriate performance-based evaluation, to ensure that students are developing professional work characteristics and designated competencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2623 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists LR 49: 37:2357.
§3403. Program Requirements—Internship

A. - A.2. ...

3. completion of activities and attainment of school psychology competencies that are consistent with the goals and objectives of the program and emphasize human diversity, and provision of school psychology services that result in direct, measurable, and children, families, schools, and/or other consumers;

4. inclusion of both formative and summative performance-based evaluations of interns that are completed by both program faculty and field-based supervisors, are systematic and comprehensive, and insure that interns demonstrate professional work characteristics and attain competencies needed for effective practice as school psychologists;

A.5. - A.10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2623 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:

Chapter 40. Continuing Education Requirements of Licensed Specialist in School Psychology

§4001. General Requirements

A. Pursuant to R.S. 37:2357 each licensed specialist in school psychology is required to complete continuing education hours within biennial reporting periods. Continuing education is an ongoing process consisting of learning activities that increase professional development.

B. Each licensed specialist in school psychology is required to complete 40 hours of credit of continuing education within a biennial reporting period beginning in July 1 and ending June 30.

1. Two of the above 40 hours of credit of continuing education must be in the areas of ethics or law.

2. Within each reporting period, LSSPs must earn credits in at least two of the nine categories listed under §4002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2625 (December 2015), amended by the Department of Health, LR 49:

Family Impact Statement

The Board of Examiners of Psychologists hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to the licensing fees imposed by this agency are not anticipated to have an impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; behavior and personal responsibility of children as it relates to promptly facilitating the licensure of qualified professionals who may work with families and families of school aged children to promote their health, education and well-being; family earnings and family budget; or the ability of the family or a local government to perform the function as contained in the proposed Rule. The proposed rules may positively impact the facilitation of qualified professionals who may work with families and families of school aged children.

Poverty Impact Statement

The proposed modifications impact psychologists, provisionally licensed psychologists, and specialist in school psychology in the interest of the health, safety and the welfare of the public. The rules do not have any known or foreseeable negative impact on any child, individual or family as defined by R.S. 49:973 B. Specifically, there is no known or foreseeable effect on: household income, assets, and financial security; early childhood development and preschool through postsecondary education development; employment and workforce development; taxes and tax credits; or, child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed rule changes will impact only LSBEF licensed psychologists who utilize ATAP's in the provision of psychological services to clients, as they create a requirement for registration and renewal of ATAP's. The proposed rules align with statewide, and most nationally accepted standards for healthcare professions by requiring minimum standards, including criminal background checks, on assistants engaged in direct client contact with vulnerable populations. Licensed psychologists are responsible for ensuring their ATAP's are properly registered. Other than initial registration and annual renewals, licensed psychologists currently using ATAP's in accordance with current regulations are not anticipated to experience new workload adjustments or paperwork.

Public Comments

Interested persons may submit written comments to Jaime T. Monic, Executive Director, 4334 S. Sherwood Forest Blvd., Suite C-150, Baton Rouge, LA 70816. All comments must be submitted by noon on December 12, 2022.

Public Hearing

LSBEF will conduct a public hearing at noon on December 16, 2022, at the board office located at 4334 S. Sherwood Forest Blvd., Suite C-150, Baton Rouge, LA 70816. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Jaime T. Monic
Executive Director

Fiscal and Economic Impact Statement

For Administrative Rules

Rule Title: Continuing Education, Exemptions and Fees

I. Estimated Implementation Costs (Savings) to State or Local Government Units (Summary)

The proposed rule changes will result in a one-time publication expense of $1,428 for the LA State Board of Examiners of Psychologists (LSBEF) in FY 23. The proposed rule changes may result in a nominal expenditure increase for the LSBEF, as they include a new, optional process of reviewing and approving continuing professional development workshops and conferences, however these costs are expected to be mitigated through the use of electronic communications; further, such expenditures will be absorbed and/or defrayed by new fees included in the proposed rule changes (see Part II). The proposed rule changes clarify continuing education
IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Entities who seek and receive optional approval of their workshop/conference from the LSBEP may gain competitiveness over those that do not seek such approval. However, the aggregate effect on competition is unknown and dependent upon LSBEP licensees seeking approved courses in lieu of those that are not approved. The proposed rule changes are not anticipated to affect employment.

Jaine T. Moric
Executive Director
2211#013
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Board of Examiners of Psychologists
Registration of Assistant to a Psychologist
(LAC 46: LXIII. 601, 1100, 1101, 1103, 1105, 1107, and 1109)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq, that the Board of Examiners of Psychologists intends to adopt Section 1100, 1105, 1107 and 1109 and amend Sections 601, 1101 and 1103 related to the registration of assistants to psychologists in accordance with the Louisiana Licensing Law for Psychologist R.S. 37:2253.C(1) 37:2257.C(4), 37:2352(7), and the Administrative Procedures Act §968 and 971.

Title 46
OCCUPATIONAL AND PROFESSIONAL STANDARDS
Part LXIII. Psychologists
Subpart 1. General Provisions
Chapter 6. Fees
§601. Licensing Fees
A. Licensing Fees

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AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

2825 Louisiana Register Vol. 48, No. 11 November 20, 2022
January 9, 2023

MEMORANDUM

IN RESPONSE TO COMMENTS RECEIVED BY THE LSBEP

DURING A PUBLIC RULES HEARING HELD ON FRIDAY, DECEMBER 16, 2022

RE: Louisiana Register Volume 48 No. 11, November 20, 2022.

a. NOTICE OF INTENT: Training, Credentials and Scope of Practice for Neuropsychology Specialty Designation and Provisional Licensure; other technical corrections (LAC 46: LXIII. 100, 102, 103, 108, 201, 303, 305, 307, 701, 702, 705, 709, 1002, 1201, 1205, 1213, 1401, 1403, 1407, 1409, 1701, 1702, 1705, 1903, 1905 and amend Sections 3402 and 3403)

b. NOTICE OF INTENT: Registration of Assistant to a Psychologist (LAC 46: LXIII. 601, 1100, 1101, 1103, 1105, 1107, and 1109)

c. NOTICE OF INTENT: Continuing Education, Exemptions and Fees (LAC 46: LXIII. 601, 603, 803, 805, 806, 811, 905 and 4001)

d. NOTICE OF INTENT: Code of Ethics for Licensed Specialists in School Psychology (LAC 46: LXIII. Sections 4201, 4203, 4205, 4207, 4209, 4211)

The LSBEP conducted a formal hearing on the rules on December 16, 2022, one individual from the public attended and was requested by LSBEP to comment with information on the process of registering assistants, based on her knowledge and experience with the process as director of the Louisiana Behavior Analyst Board. Written comments received prior to the hearing were read into the record and discussed by the Board of Directors.

Roster of Attendees (In-person and Virtual):

Board Members Present: Dr. Greg Gormanous, Dr. Michelle Moore, Dr. Shannae Harness, Dr. T. Shavaun Sam and Dr. Matthew Holcomb; Board Members Absent: Mr. Chance McNeely; Staff Present: Executive Director, Jaime T. Monic
Guests Present: Rhonda Boe, Jonathon Wagner

Zoom Attendees: LSBEP Staff Jalyne Brown, Richard Niolon, Ph.D., Kim VanGeffen, Ph.D., Dr. Chelsey Mahler, Beth Arrendondo, Chloe Brubaker, Stevie Faust, Lacey Moffiatt, Julie Nelson, Clifton Mixon, Dr. Myers, Paula Zeanah

Oral and written comments were received related to rule changes involving the registration of assistants; telesupervision; continuing professional development, doctoral program in psychology and clinical neuropsychology.

Comments were both in support and opposition of the rule changes. However, the majority of comments received were questions and suggestions for improving rules and/or roll out procedures. This response focuses on providing a summary of questions, concerns, and suggestions offered by individuals who commented.

All written comments were read into the record and are attached to this document. The written comments were from many people who were attending virtually, including Kim VanGeffen, Ph.D., Dr. Chelsey Mahler, Dr. Beth Arrendondo, Dr. Julie Nelson, Dr. Clifton Mixon, Dr. Tina Myers, and Dr. Paula Zeanah.

LSBEP also requested oral comments from a member of the public who attended in person. Immediately following the hearing, the Board of Directors, being sensitive to public attendees, next devoted time and discussed most of the comments. Those deliberations resulted in several important non-substantive tweaks.

➤ Summary of questions, concerns and suggestions received related to proposed rules regarding the Registration of Assistants.

- General concerns included statements that the changes were financially driven along with suggestions to alternately increase the renewal fee for licensed psychologists;
- Concerns that the language under 1101.A. "Upon employment of an ATAP..." would create a hardship on the business, the psychologist, the assistant, or all of above if employment is required prior to the approval of an ATAP’s registration;
- Concerns that the minimum education was set at a high-school diploma;
- Conflicting concerns were raised regarding requirements for in-person supervision:
  a. "I know that many of my colleagues who currently utilize ATAPs would request that a psychologist be able to supervise off-site. While low-risk cases are likely to not present a challenge, even low-risk cases can turn into high-risk cases between sessions. I encourage LSBEP to maintain that the supervising licensed psychologist (LP) or assigned alternate LP competent in the area of service be on site when the ATAP is interacting with patients."

  b. "The requirement to require an on-site supervisor whenever services are being offered also notes that "exceptions to this provision" may be approved with no details provided as to what would qualify. As noted in discussion on the LPA listervy, this is a burdensome requirement on small practices that does not seem clinically necessary to protect patients (e.g., if the supervising psychologist is virtually available or available by phone)."

  c. "... the requirement to be present in person limits expansion of access to services via telepsychology. Provision of psychological services no longer has to be done in person, and the supervisory requirements should match the acknowledgement of the expansion of access to the supervising psychologist. CMS recognized this change by including Behavioral Health Services in "Incident to" supervision to expand access to and coordination of mental health services in rural/underserved areas where masters’-level practitioners represent a substantial segment of the"
mental health providers. Consider language clarifying in person in the context of telepsychology and tele-supervision.

- **Conflicting statements regarding Grandfathering were raised:**
  a. "I know that many of my colleagues who currently utilize ATAPs would request existing ATAPs be grandfathered in. I request that the board require currently employed ATAPs to register and meet the minimum criteria, have a background check (may be done prior to the new rule), and pay the registering fee. My rationale is that the purpose of this fee bill is both to protect patients and develop a source of income for the board. Grandfathering will diminish the board's ability to accomplish both of these goals."
  b. "I invite the board to please consider a grandfather clause for individuals currently working as ATAPs. Without this clause, there will be a disruption of current psychological work that would harm the practice and potentially harm the public as many ongoing services would need to be rescheduled and delayed in a time of mental health crisis and provider shortages. I would recommend 1 year for all current ATAPs to become registered following implementation of the new rule."

- **Questions about applicability:** Who will be required to register as assistants? Will a Licensed Professional Counselor (LPC) be required to register as an assistant, are Medical Psychologists exempt? Will this only apply to psychometrists? Please consider adding "psychometrists" to the list of allowable terms under § 1101.F.

**LSBEP's Response to Comments, Questions, Concerns regarding the Registration of Assistants:**

In 2021, the LSBEP and Louisiana Psychological Association (LPA) testified before the legislature on a fee bill that was a compromise to previously proposed statutory changes that were being sought to clarify the legislature's expectations in LSBEP's charge to regulate the profession of psychology. The result was Act No. 238 of the 2021 Regular Legislative Session. During testimony presented by then Chairperson, Amy Henke, legislators raised concerns that LSBEP did not already require the registration of assistants and criminal background check, noting persons could not work in other occupations without having completed background checks.

LSBEP will generate fees in the course of registering assistants to psychologists. Fees are intended to support staff and technology required to carry out LSBEP's the mission of public protection charged by the Louisiana Legislature.

LSBEP is required to regulate assistants pursuant to Psychology Practice Act (La. R.S. 37:2351-2378, et al). Currently regulations exist related to the how an assistant may be utilized. The proposed rules address this charge and the need for change arose from a growing concerns brought about from issues involving ATAP's conducting assessments.

Some comments received during the current rulemaking process seemed to support concerns that individuals either lacked awareness or understanding of the current regulations. Another comment that it would be a problem for psychologists in hospital-based and other institutional settings to change job descriptions to require that the supervising psychologist "be vested with functional authority" over the ATAP. Note this is a current requirement of supervising psychologists.

Regarding the concerns that the language under 1101.A. "Upon employment of an ATAP..."would create a hardship on the business, the psychologist, the assistant, or all of above if employment is required prior to the approval of an ATAP's registration, it is the intention of the proposed rule that as a condition for an ATAP to assist in the provision of psychological services, the licensed psychologist must register their ATAP. **The Board of Directors found these comments to be valid.** In response, the LSBEP will request
a non-substantive change, to added clarifying language under §1101.A. so that the proposed rule reads, "Upon, or pending, employment of an ATAP…"

Addressing the minimum standard of requiring a high school diploma as a requirement for registration: The LSBEP did consider level of education when developing these standards and determined that there may be instances where a high school diploma is sufficient for supervised services. Higher levels of education may be required for more complex services, and Licensed Psychologist should consult best practices/test administration standards to ensure that an ATAP's qualifications are commensurate with the services to be performed (see also §1101.A.5.). For example, in the provision of services for autism related disorders by Behavior Analysts who are licensed under the Louisiana Behavior Analyst Board, a high school diploma is the minimum standard for the registration of a Line Technician. Such services are also within the scope of practice of a Licensed Psychologist who may utilize an ATAP in the same capacity. Raising the educational requirements could result in unintended restrictions to practice.

Addressing concerns of In-person Supervision of ATAP's, it is indeed the intention that Continuous Professional Supervision of an unlicensed ATAP occur in-person. This is actually a requirement under the current regulation. As one commenter stated, "While low-risk cases are likely to not present a challenge, even low-risk cases can turn into high-risk cases between sessions. I encourage LSBEP to maintain that the supervising licensed psychologist (LP) or assigned alternate LP competent in the area of service be on site when the ATAP is interacting with patients." The Board agrees and will move forward with the current language noting that there is currently and will continue to be an option for the supervisor to request an exception from this standard. This exception must have prior approval by the Board.

Addressing comments and concerns regarding grandfathering: The proposed rules take into consideration a recent performance audit concluded on June 1, 2022 by the Louisiana Legislative Auditor (LLA). In the LLA's report, the auditor recommended to the legislature that LSBEP strengthen its regulation of the profession of psychology, and that background checks be conducted on all applicants...." LLA cited regulatory practices of other Louisiana and regional boards and cited issues in relying on licensees to self-disclose violations during the renewal process. LLA noted that, "The Rap Back service allows LSBEP to receive ongoing status notifications of any criminal activity on licensees with a completed criminal background check, thus eliminating the need for repeated background checks on the same licensee." Therefore, the board intends to require registration and a background check for all currently employed and future ATAP's. However, the Board is developing rollout procedures and education to avoid any disruption to psychological services by currently employed ATAP's. Additionally, while the registration of current ATAP's will be given deference, should an issue arise through the registration process that is unable to be resolved through education, the Board will act according to the procedures outlined in the proposed §1107 in the interest of the public.

To address the questions of applicability, the proposed rule defines ATAP's as "a non-licensed individual who aids a Licensed Psychologist in the provision of psychological services to patients and clients." This would include anyone engaged in the Practice of Psychology as defined under LA R.S. 37:2352. A front desk person, receptionist, billing department etc. solely engaged in administrative/clerical duties would not be required to register. There are exemptions in the proposed rule under §1109.Exceptions to the Registration of an Assistant to a Psychologist that clearly outline exceptions and exemptions, including "A medical psychologist utilizing assistants under the provisions of RS 37:1360.61 under the jurisdiction of the Louisiana State Board of Medical
Examiners; and “Members of other professions who are working in association or collaboration with a Licensed Psychologist, and who are licensed or certified under the laws of this state to independently render and bill for services that are consistent with their scope of practice under the jurisdiction of their respective license or certification.”

**Summary of questions, concerns and suggestions received related to proposed rules regarding Continuing Professional Development.**

- Concerns that the continuing professional development changes change some of the previous standards and automatic approvals.
- Does the board now have to approve what was previously approved based on the rules alone?
- Does the term "specifically offer" mean something more than offer?
- Concerns were raised that §805. part E. restricts sponsors of continuing education that meet criteria for approval under part B from using language saying that they meet requirements for licensure.

**LSBEF's Response to Comments, Questions, Concerns regarding Continuing Professional Development:**

The proposed rules related to Continuing Professional Development (CPD) do change some of the previous standards and automatic approvals. The following information was presented to LPA regarding these changes, specifically that the proposed CPD changes:

- Remove obsolete transitionary language from 2014 and 2015 CPD rollout.
- Add a requirement that (2) of the 40 hours that are currently required must be within the area of multiculturalism or diversity.
- Remove the categorical requirement in consideration of least restrictive requirements for license renewal.
- Define activities that are "automatically approved" by the Board as Workshops, Conference Workshops/Training Activities that that have Board approved sponsors.
- Create an *optional* procedure for an individual or entity that is not "automatically approved" to apply for a one-time approval of an offering or activity, with an option to submit an application for renewal of the approval. This procedure broadens the options for the licensee and increases competition for continuing education providers.
- Create an *optional* procedure for a licensee to request "preapproval" of a course or activity that is not defined as "automatically approved".
- Redefine those categories within which a licensee *may request* "preapproval". This procedure broadens the options for the licensee and increases competition for continuing education providers.
- Create a deadline for the licensee to request "preapproval" of not later than June 30th of their reporting year.
- Create an *optional* retired status for eligible licensees: "Psychologist Emerit: Retired".
- Create definitions, criteria and a procedure for requesting Emerit status.
- Create a procedure for Emerit to return to practice.
- Provide that "Psychologist Emerit: Retired" are exempt from Continuing Education requirements.

The changes are necessary to alleviate issues surrounding improper reporting by psychologists in hopes that it will reduce or alleviate reporting issues, encourage appropriate activities and reduce the work
involved in audits. These issues arose out of an amendment promulgated in 2013 which created 3 categories (9 sub-categories) of CPD and a requirement that CPD be obtained in at least 2 of the 9 categories. Since this change, the Board has noted issues in individuals not understanding the regulations and misclassifying their CPD causing improper reporting by psychologists. The LSBEP annually conducts continuing education audits of 10% of the reporting population, approximately 40 individuals (a minimum of 40 hours each report, but usually more) of CE. In these audits, the LSBEP reviews the sponsorship and activities to ensure that they meet the continuing professional development requirements under Chapter 8. It is common that activities are rejected and additional CE is required at the expense of the licensee in order to meet the established requirements. Licensees attempt to claim a single professional consultation which does not meet the requirement for CPD. In these instances, that individual is flagged for future reports and the amount of time that the licensee has to obtain CE for the next reporting period is reduced, and in some cases delays the license renewal/reinstatement. This also makes more work for the LSBEP in correspondence, requires the LSBEP grant extensions and track those extensions until the requirements have been fulfilled.

The proposed rule simplifies the process by minimizing those activities that are pre-approved to approved sponsored workshops or conferences, while also leaving the option to seek pre-approval for non-traditional activities that have proved to be problematic when left to the judgement and discretion of individual licensees.

The proposed rules do not require a licensee to seek preapproval for CPD that meets the standards for sponsorship, objectives and activity.

Regarding the question related to the language, “specifically offer.” In this instance, “specifically offer” is referring to “Acceptable sponsors of continuing education” and means that the organization expressly offers or approves continuing education at a graduate or post-doctoral level to psychologists.

Regarding the comments related to the proposed §805.E. This section states that “Sponsors of CPD approved under Part “B” of this section may not advertise a CPD as board-approved or endorsed or purport that the CPD satisfies the licensure requirements set forth in §803.” To clarify, §805.E. refers to those activities that do not require pre-approval by the board. In such cases, these activities will not have undergone any review by the Board to satisfy the content criteria under §801 or §803. In other words, unless the Board has reviewed and approved a specific CPD, it would be false to purport that the activity or offering is approved by the board, endorsed by the board, or that the CPD activity satisfies the licensure requirements established by the Board (see also §805.A).

Note this does not prohibit a licensee from making such determinations in selecting CPD activities or offerings based on the rules, as is currently the case. Nor does it prohibit an organization from sponsoring an activity.

> **Summary of questions, concerns and suggestions received related to proposed rules regarding Emeritus Status.**

- Consider that the term Emeritus is the masculine form.

**LSBEP’s Response to Comments, Questions, Concerns regarding Emeritus Status:**
The Board of Directors found this comment to be correct. In response, the LSBEP made a non-substantive change to use “Emerit” throughout the rules.

- **Summary of questions, concerns and suggestions received related to proposed rules regarding Licensed Specialists in School Psychology:**
  - The ethics for the school specialist appear to contain political objectives, in contrast to purely scientific or professional objectives.

**LSBEP's Response to Comments, Questions, Concerns regarding Licensed Specialists in School Psychology:**

There is no political objective or influence for this revision. In June 2017 LSBEP promulgated the Code of Ethics for Licensed Psychologists based on advice from legal counsel that the board’s ethics code should be promulgated into regulation. This process avails itself to the rulemaking process for directly affected Louisiana licensees should these standards change. The Board is addressing consistency in its regulation of licensed specialists in school psychology. These proposed rules are modeled from the current version of National Association of School Psychologists (NASP) Principles for Professional Ethics.

- **Summary of questions, concerns and suggestions received related to proposed rules regarding Telespsychology/Telesupervision:**
  - Concerns were raised regarding the specific language proposed in §1403. & §1409. E.4. Telesupervision and Telespsychology that has been interpreted to require only video and audio transmissions simultaneously; in other words, concerns that audio-only is not allowed in either the provision of psychological services or in providing supervision.

**LSBEP's Response to Comments, Questions, Concerns regarding Telespsychology/Telesupervision:**

The Board of Directors found this comment correct and helpful. It was not the intent of the proposed regulations to prohibit audio only. In fact, under the currently proposed §1403.C. “Telesupervision” is defined as “a method of providing supervision to psychology trainees via two-way video and audio transmissions simultaneously or other telecommunication technologies.”  

[Emphasis added] Further, §1403.D defines Telecommunication as “…the preparation, transmission, communication, or related processing of information by electrical, electromagnetic, electromechanical, electro-optical, or electronic means (Committee on National Security Systems, 2010).”

In response, the LSBEP will clarify not to exclude audio only and made a non-substantive change to revise §1403.A. and §1409.E.4, to add language to clarify that audio only communication is allowable.

- **Summary of questions, concerns and suggestions received related to proposed rules regarding Training and Credentials:**
  - Doctoral Program in Psychology: There appears to be a typographical error in Section A graduate whose [should this be who is?] of a doctoral program, at the time of graduation, that is either accredited by the American Psychological Association...”
• **Clinical Neuropsychology** There does not appear to be a provision for the grandfathering of those psychologists who currently have a declared specialty in neuropsychology.

**LSBEP's Response to Comments, Questions, Concerns | Basis and Rationale regarding Clinical Neuropsychology:**

The Board of Directors found this comment to be helpful regarding the grammar correction and made a non-substantive change to correct the sentence. Regarding grandfathering under the proposed rules pertaining to Clinical Neuropsychology, the proposed revisions only clarify the current requirements. Psychologists who currently have a declared specialty in neuropsychology will not be impacted.

In summary, overall the majority of commenters supported the requirement for a criminal background check. Most of the questions were related to roll out and procedures for registering assistants to psychologists (e.g., the timeline for registering current and new hires; application process/forms; administrative vs. board approval; turnaround for approval; who is responsible for the application fees; background check requirements and procedures; procedures for sharing ATAP’s; termination procedures).

These questions, concerns and suggestions will be addressed through training and education.

Sincerely,

GREGORY KELLY GORMANOUS, PH.D.
Gregory Gormanous, Ph.D.
Chairperson

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**NOTICE:** In accordance with La. R.S. 42:14.D., the LSBEP shall allow public comments at any point during a meeting of the LSBEP prior to action on an agenda item upon which a vote is to be taken. Individuals who wish to comment on a matter must sign in and state their intent to comment on a matter.

La. R.S. 44:33.1 - In compliance with La. R.S. 44:33.1, the LSBEP hereby gives notice that information submitted to the LSBEP may become public record pursuant to the provisions of Louisiana Public Records Law, La. R.S. 44:1, et seq.