February 9, 2023

Via Electronic Submission Only

Senator Patrick Page Cortez, President
Senate Health and Welfare Committee
apa.senatopresident@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. Chapter 42. Ethical Standards for LSSP's

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 September 14, 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 (ethics for Licensed Specialists in School Psychology): One written comment was received prior to the hearing and read into the record. This comment stated, "The ethics for the school specialist appear to contain political objectives, in contrast to purely scientific or professional objectives." The Board did not find this comment to be founded, and has no political objective or influence for this revision. The Board clarified that 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 the Licensed Specialist in School Psychology. These proposed rules are modeled from the current version of National Association of School Psychologists (NASP) Principles for Professional Ethics.

A copy of this report has been placed on the LSBEP website in accordance with La. 49:968(D)(1)(c).

Sincerely,

Jaime T. Monic
Executive Director

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

NOTICE:
L.A.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.
L.A. 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.
EMERGENCY RULE □ NOTICE OF INTENT □ RULE □ POTPOURRI

REFER TO INSTRUCTIONS ON REVERSE SIDE

This is your authority to publish in the (month) 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 48: LXIII. Chapter 42. Ethical Standards for LSSP's

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 48: LXIII. Chapter 42. Ethical Standards for LSSP's

CERTIFICATION OF AVAILABLE FUNDS

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>
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<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>
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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.

Signature of Agency Head or Designee
Jaime T. Monic, Executive Director
Print Name and Title of Agency Head or Designee
jaime.monic@la.gov
Agency E-Mail Address for Billing

Per Page Charge $ + Revision Charge $ = TOTAL $
Small Business Analysis

The impact of the proposed amendment to Section 9119 of the Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small business.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level, requirements or qualifications required to provide the same level of service, and no increase on direct or indirect cost. The proposed Rule will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments relative to the proposed Rule until 4:30 p.m., Monday, December 10, 2022 to Paige Hargrove, Louisiana Emergency Response Network, 14141 Airline Hwy., Suite B, Building 1, Baton Rouge, LA 70817, or via email to paige.hargrove@la.gov.

Paige Hargrove
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: LERN Destination Protocol: TRAUMA

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule adopts Louisiana Administrative Code (LAC) Title 48 – Public Health General, Part I – General Administration, Subpart 15 – Louisiana Emergency Response Network Board, Chapter 191 – Trauma Protocols, Section 19123 – Destination Protocol: TRAUMA. The Louisiana Emergency Response Network (LERN) Board is authorized to adopt protocols for the transport and time sensitive ill patients.

Since 2009, the LERN Board has previously adopted protocols for trauma patients that were published in the Potpourri Section (announcements and various information that will never become part of the LAC) of the State Register. Those became rules on August 18, 2022. The LERN Board revised and adopted “Destination Protocol: TRAUMA”, to be effective January 1, 2023, which will replace the previous trauma destination protocol adopted and promulgated December 10, 2015. The revised destination protocol aligns closely with the National Guidelines for the “Field Triage of Injured Patients” and continues to recognize trauma programs as part of the destination for trauma patients. This proposed rule modifies the revised trauma destination protocol in section 19123, which is the latest trauma protocol adopted by the Louisiana Emergency Response Network Board.

Other than the cost to publish in the State Register, which is estimated to be $425 in FY23, it is not anticipated that the proposed rule will result in any material costs or savings to LERN or any state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units as a result of this proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons, small businesses, or non-governmental groups. The proposed rule is simply a codification of protocols authorized by La. R.S. 9:2798.5A.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment.

Paige B. Hargrove
Executive Director
22113047

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Board of Examiners of Psychologists

Code of Ethics for Licensed Specialists
(LAC 46 LXIII Chapter 42)

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 4203, 4205, 4207, 4209, 4211 and amend Section 4201 related to the code of ethics for Licensed Specialists in School Psychology in accordance with the Louisiana Licensing Law for Psychologist R.S. 37:2353.C(1) 37:2355.C(4), 37:2357.(7), and the Administrative Procedures Act §968 and 971.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII Psychologists

Subpart 2. Licensed Specialists in School Psychology

Chapter 42. Ethical Standards for Licensed Specialists in School Psychology

§4201. Ethical Principles and Code of Conduct

A. Licensed Specialists in School Psychology, henceforth referred to as LSSP, adhere to the Ethical Standards in this Chapter to ensure the respect dignity, and rights of all persons are maintained; to ensure professional competence and responsibility; to ensure honesty and integrity in professional relationships; and to ensure responsibility to schools, families, communities, the profession, and society.

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, 41:2627 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists, LR 49: (Feb 2023)

§4203. Definitions

A. The following definitions are applicable Chapter 42 and specialists in school psychology only.
Advocacy—LSSPs have a special obligation to speak up for the rights and welfare of students and families, and to provide a voice to clients who cannot or do not wish to speak for themselves. Advocacy also occurs when LSSPs use their expertise in psychology and education to promote changes in schools, systems, and laws that will benefit schoolchildren, other students, and families. Nothing in this code of ethics, however, should be construed as requiring LSSPs to engage in insubordination (willful disregard of an employer's lawful instructions) or to file a complaint about school practices with a federal or state regulatory agency as part of their advocacy efforts.

Assent—refers to a minor's affirmative agreement to participate in psychological services or research.

Child—as defined in law, generally refers to a minor, a person younger than the age of majority. Although this term may be regarded as demeaning when applied to teenagers, it is used in this document when necessary to denote minor status. The term student is used when a less precise term is adequate.

Client—the person or persons with whom the LSSP establishes a professional relationship for the purpose of providing school psychological services. The LSSP-client professional relationship is established by an informed agreement with client(s) about the LSSP's ethical and other duties to each party. While not clients per se, classrooms, schools, and school systems also may be recipients of school psychological services and often are parties with an interest in the actions of LSSPs.

Informed Consent—the person giving consent has the legal authority to make a consent decision, a clear understanding of what it is they are consenting to, and that their consent is freely given and may be withdrawn without prejudice. It is recommended that school distributed parent handbooks and websites advise parents that a student may be seen by school health or mental health professionals (e.g., school nurse, counselor, social worker, LSSP) without parent notice or consent to ensure that the student is safe or is not a danger to others. Parents should also be advised that LSSPs routinely assist teachers in planning classroom instruction and monitoring its effectiveness and do not need to notify parents of, or seek consent for, such involvement in student support.

Parent—may be defined in law or policy, and can include the birth or adoptive parent, an individual acting in the place of a natural or adoptive parent (a grandparent or other relative, stepparent, or domestic partner), and/or an individual who is legally responsible for the child's welfare.

Private Practice—the LSSP may provide private practice under the supervision of a licensed psychologist to provide school psychological services. In private practice, billing for the services of the LSSP is the responsibility of the licensed psychologist.

School-Based Practice—refers to the provision of school psychological services under the authority of a state, regional, or local educational agency. School-based practice occurs if the LSSP is an employee of the schools or contracted by the schools on a per-case or consultative basis.

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: (Footnote)
the need for services and assure the child is safe and not in danger. It is ethically permissible to provide services to mature minors without parent consent where allowed by state law and school policy. However, if the student is not old enough to receive school psychological assistance independent of parent consent, the LSSP obtains parent consent to provide continuing assistance to the student beyond the preliminary meetings or refers the student to alternative sources of assistance that do not require parent notice or consent.

iii. LSSPs ensure that an individual providing consent for school psychological services is fully informed about the nature and scope of services offered, assessment/intervention goals and procedures, any foreseeable risks, the cost of services to the parent or student (if any), and the benefits that reasonably can be expected. The explanation includes discussion of the limits of confidentiality, who will receive information about assessment or intervention outcomes, and the possible consequences of the assessment/intervention services being offered. Available alternative services are identified, if appropriate. This explanation takes into account language and cultural differences, cognitive capabilities, developmental level, age, and other relevant factors so that it may be understood by the individual providing consent. LSSPs appropriately document written or oral consent. Any service provision by interns, practicum students, or other trainees is explained and agreed to in advance, and the identity and responsibilities of the supervising LSSP are explained prior to the provision of services.

c. LSSPs encourage a student’s voluntary participation in decision-making about school psychological services as much as feasible. Ordinarily, LSSPs seek the student’s assent to services; however, it is ethically permissible to bypass minor student assent to services if the service is considered to be of direct benefit to the student and/or is required by law. It is recommended that school distributed parent handbooks and websites advise parents that a student may be seen by school health or mental health professionals (e.g., school nurse, counselor, social worker, LSSP) without parent notice or consent to ensure that the student is safe or is not a danger to others. Parents should also be advised that LSSPs routinely assist teachers in planning classroom instruction and monitoring its effectiveness and do not need to notify parents of, or seek consent for, such involvement in student support.

i. If a student’s assent for services is not solicited, LSSPs nevertheless honor the student’s right to be informed about the services provided.

ii. When a student is given a choice regarding whether to accept or refuse services, the LSSP ensures the student understands what is being offered, honors the student’s stated choice, and guards against overwhelming the student with choices the student does not wish or is not able to make.

d. LSSPs respect the wishes of parents who object to school psychological services and attempt to guide parents to alternative resources.

2. Privacy and Confidentiality. LSSPs respect the right of persons to choose for themselves whether to disclose their private thoughts, feelings, beliefs, and behaviors.

a. LSSPs respect the right of persons to self-determine whether to disclose private information.

b. LSSPs minimize intrusions on privacy. They do not seek or store private information about clients that is not needed in the provision of services. LSSPs recognize that client-LSSP communications are privileged in most jurisdictions and do not disclose information that would put the student or family at legal, social, or other risk if shared with third parties, except as permitted by the mental health provider-client privilege laws in their state.

c. LSSPs inform students and other clients of the boundaries of confidentiality at the outset of establishing a professional relationship. They seek a shared understanding with clients regarding the types of information that will and will not be shared with third parties. However, if a child or adolescent is in immediate need of assistance, it is permissible to delay the discussion of confidentiality until the immediate crisis is resolved. LSSPs recognize that it may be necessary to discuss confidentiality at multiple points in a professional relationship to ensure client understanding and agreement regarding how sensitive disclosures will be handled.

d. LSSPs respect the confidentiality of information obtained during their professional work. Information is not revealed to third parties without the agreement of a minor child’s parent or legal guardian (or an adult student), except in those situations in which failure to release information would result in danger to the student or others, or where otherwise required by law. Whenever feasible, student assent is obtained prior to disclosure of their confidences to third parties, including disclosures to the student’s parents.

e. LSSPs discuss and/or release confidential information only for professional purposes and only with persons who have a legitimate need to know. They do so within the strict boundaries of relevant privacy statutes.

f. LSSPs respect the right of privacy of students, parents, and colleagues with regard to sexual orientation, gender identity, or transgender status. They do not share information about the sexual orientation, gender identity, or transgender status of a student (including minors), parent, or school employee with anyone without that individual’s permission.

g. LSSPs respect the right of privacy of students, their parents and other family members, and colleagues with regard to sensitive health information (e.g., presence of a communicable disease). They do not share sensitive health information about a student, parent, or school employee with others without that individual’s permission (or the permission of a parent or guardian in the case of a minor). LSSPs consult their state laws and department of public health for guidance if they believe a client poses a health risk to others.

3. Fairness and Justice. In their words and actions, LSSPs promote fairness and justice. They use their expertise to cultivate school climates that are safe and welcoming to all persons regardless of actual or perceived characteristics, including race, ethnicity, color, religion, ancestry, national origin, immigration status, socioeconomic status, primary language, gender, sexual orientation, gender identity, gender expression, disability, or any other distinguishing characteristics.
a. LSSPs do not engage in or condone actions or policies that discriminate against persons, including students and their families, other recipients of service, supervisees, and colleagues based on actual or perceived characteristics including race; ethnicity; color; religion; ancestry; national origin; immigration status; socioeconomic status; primary language; gender; sexual orientation, gender identity, or gender expression; mental, physical, or sensory disability; or any other distinguishing characteristics.

b. LSSPs pursue awareness and knowledge of how diversity factors may influence child development, behavior, and school learning. In conducting psychological, educational, or behavioral evaluations or in providing interventions, therapy, counseling, or consultation services, the LSSP takes into account individual characteristics, including race, ethnicity, color, religion, ancestry, national origin, immigration status, socioeconomic status, primary language, gender, sexual orientation, gender identity, gender expression, disability, or any other distinguishing characteristics so as to provide effective services.

c. LSSPs work to correct school practices that are unjustly discriminatory or that deny students, parents, or others their legal rights. They take steps to foster a school climate that is safe, accepting, and respectful of all persons.

d. LSSPs strive to ensure that all children have equal opportunity to participate in and benefit from school programs and that all students and families have access to and can benefit from school psychological services.

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: (369233)

§4207. Professional Competence and Responsibility

A. Beneficence, or responsible caring, means that the LSSP acts to benefit others. To do this, LSSPs must practice within the boundaries of their competence, use scientific knowledge from psychology and education to help clients and others make informed choices, and accept responsibility for their work.

1. To benefit clients, LSSPs engage only in practices for which they are qualified and competent.

a. LSSPs recognize the strengths and limitations of their training and experience, engaging only in practices for which they are qualified. They enlist the assistance of other professionals in supervisory, consultative, or referral roles as appropriate in providing effective services.

b. Practitioners are obligated to pursue knowledge and understanding of the diverse cultural, linguistic, and experiential backgrounds of students, families, and other clients. When knowledge and understanding of diversity characteristics are essential to ensure competent assessment, intervention, or consultation, LSSPs have or obtain the training or supervision necessary to provide effective services, or they make appropriate referrals.

c. LSSPs refrain from any activity in which their personal problems may interfere with professional effectiveness. They seek assistance when personal problems threaten to compromise their professional effectiveness (also see §4209.A.4. Multiple Relationships and Conflicts of Interest).

d. LSSPs engage in continuing professional development. They remain current regarding developments in research, training, and professional practices that benefit children, families, and schools. They also understand that professional skill development beyond that of the novice practitioner requires well-planned continuing professional development and professional supervision.

2. Accepting Responsibility for Actions. LSSPs accept responsibility for their professional work, monitor the effectiveness of their services, and work to correct ineffective recommendations.

a. LSSPs review all of their written documents for accuracy, signing them only when correct. They may add an addendum, dated and signed, to a previously submitted report if information is found to be inaccurate or incomplete.

b. LSSPs actively monitor the impact of their recommendations and intervention plans. They review a recommendation, or modify or terminate an intervention plan, when data indicate the desired outcomes are not being attained. LSSPs seek the assistance of others in supervisory, consultative, or referral roles when progress monitoring indicates that their recommendations and interventions are not effective in assisting a client.

c. LSSPs accept responsibility for the appropriateness of their professional practices, decisions, and recommendations. They correct misunderstandings resulting from their recommendations, advice, or information and take affirmative steps to offset any harmful consequences of ineffective or inappropriate recommendations.

d. When supervising graduate students' field experiences or internships, LSSPs are responsible for the work of their supervisees.

3. Responsible Assessment and Intervention Practices. LSSPs maintain the highest standard for responsible professional practices in educational and psychological assessment and direct and indirect interventions.

a. Prior to the consideration of a disability label or category, the effects of current behavior management and/or instructional practices on the student's school performance are considered.

b. LSSPs use assessment techniques and practices that the profession considers to be responsible, research-based practice.

i. LSSPs use assessment instruments whose validity and reliability have been established for use with members of the population tested. When such validity or reliability has not been established, psychologists describe the strengths and limitations of test results and interpretation.

ii. LSSPs use assessment methods that are appropriate to an individual's language preference and competence, unless the use of an alternative language is relevant to the assessment issues.

iii. When using standardized measures, LSSPs adhere to the procedures for administration of the instrument that is provided by the author or publisher of the instrument. If modifications are made in the administration procedures for standardized tests or other instruments, such modifications are identified and discussed in the interpretation of the results.

iv. If using norm-referenced measures, LSSPs choose instruments with up-to-date normative data.

v. When using computer-administered assessments, computer-assisted scoring, and/or interpretation programs, LSSPs choose programs that meet professional
standards for accuracy and validity. LSSPs use professional judgment in evaluating the accuracy of computer-assisted assessment findings for the examinee.

c. A psychological or psychoeducational assessment is based on a variety of different types of information from different sources.

d. Consistent with education law and sound professional practice, children with suspected disabilities are assessed in all areas related to the suspected disability.

e. LSSPs conduct valid and fair assessments. They actively pursue knowledge of the student's disabilities and developmental, cultural, linguistic, and experiential background and then select, administer, and interpret assessment instruments and procedures in light of those characteristics (see also §4205.A.3.a and §4205.A.3.b).

f. When interpreters are used to facilitate the provision of assessment and intervention services, LSSPs take steps to ensure that the interpreters are appropriately trained and are acceptable to clients.

g. It is permissible for LSSPs to make recommendations based solely on a review of existing records. However, they should utilize a representative sample of records and explain the basis for, and the limitations of, their recommendations.

h. LSSPs adequately interpret findings and present results in clear, understandable terms so that the recipient can make informed choices.

i. LSSPs use intervention, counseling and therapy procedures, consultation techniques, and other direct and indirect service methods that the profession considers to be responsible, research-based practice:

i. LSSPs use a problem-solving process to develop interventions appropriate to the presenting problems and that are consistent with data collected.

ii. Preference is given to interventions described in the peer-reviewed professional research literature and LSSPs encourage and promote parental participation in designing interventions for their children. When appropriate, this includes linking interventions between the school and the home, tailoring parental involvement to the skills of the family, and helping parents gain the skills needed to help their children.

j. LSSPs discuss with parents the recommendations and plans for assisting their children.

i. This discussion takes into account the ethnic/cultural values of the family and includes alternatives that may be available. Subsequent recommendations for program changes or additional services are discussed with parents, including any alternatives that may be available.

ii. Parents are informed of sources of support available at school and in the community.

k. LSSPs discuss with students the recommendations and plans for assisting them. To the maximum extent appropriate, students are invited to participate in selecting and planning interventions.

4. Responsible School-Based Record Keeping. LSSPs safeguard the privacy of school psychological records and ensure parent access to the records of their own children.

a. LSSPs ensure that parents and adult students are informed of their rights regarding creation, modification, storage, and disposal of psychological and educational records that result from the provision of services. Parents and adult students are notified of the electronic storage and transmission of personally identifiable school psychological records and the associated risks to privacy.

b. LSSPs ensure that documentation of their work is maintained with sufficient detail to be useful in decision making by another professional and with sufficient detail to withstand scrutiny if challenged in a due process or other legal procedure.

c. LSSPs include only documented and relevant information from reliable sources in school psychological records.

d. LSSPs ensure that parents have appropriate access to the psychological and educational records of their child.

i. Parents have a right to access any and all information that is used to make educational decisions about their child.

ii. LSSPs respect the right of parents to inspect, but not necessarily to copy, their child's answers to school psychological test questions, even if those answers are recorded on a test protocol (also see §4207.A.5.a).

e. LSSPs take steps to ensure that information in school psychological records is not released to persons or agencies outside of the school without the consent of the parent except as required and permitted by law.

f. To the extent that school psychological records are under their control, LSSPs ensure that only those school personnel who have a legitimate educational interest in a student are given access to the student's school psychological records without prior parent permission or the permission of an adult student.

g. To the extent that school psychological records are under their control, LSSPs protect electronic files from unauthorized release or modification (e.g., by using passwords and encryption), and they take reasonable steps to ensure that school psychological records are not lost due to equipment failure.

h. It is ethically permissible for LSSPs to keep private notes to use as a memory aid that are not made accessible to others. However, as noted in §4207.A.4.d, any and all information that is used to make educational decisions about a student must be accessible to parents and adult students.

i. LSSPs, in collaboration with administrators and other school staff, work to establish policies regarding the storage and disposal of school psychological records that are consistent with law and sound professional practice. They advocate for school policies and practices that:

i. safeguard the security of school psychological records while facilitating appropriate parent access to those records;

ii. identify timelines for the periodic review and disposal of outdated school psychological records that are consistent with law and sound professional practice;

iii. seek parent or other appropriate permission prior to the destruction of obsolete school psychological records of current students;

iv. ensure that obsolete school psychological records are destroyed in a way that the information cannot be recovered.
5. Responsible Use of Materials. LSSPs respect the intellectual property rights of those who produce tests, intervention materials, scholarly works, and other materials.
   a. LSSPs maintain test security, preventing the release of underlying principles and specific content that would undermine or invalidate the use of the instrument. Unless otherwise required by law or policy, LSSPs provide parents with the opportunity to inspect and review their child's test answers rather than providing them with copies of their child's test protocols.
   b. LSSPs do not promote or condone the use of restricted psychological and educational tests or other assessment tools or procedures by individuals who are not qualified to use them.
   c. LSSPs recognize the effort and expense involved in the development and publication of psychological and educational tests, intervention materials, and scholarly works. They respect the intellectual property rights and copyright interests of the producers of such materials, whether the materials are published in print or digital formats. They do not duplicate copyright-protected test manuals, testing materials, or unused test protocols without the permission of the producer. However, LSSPs understand that, at times, parents' rights to examine their child's test answers may supersede the interests of test publishers.

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: (Feb 1993)

§4209. Honesty and Integrity in Professional Relationships

A. To foster and maintain trust, LSSPs must be committed to the truth and adhere to their professional agreements. They are forthright about their qualifications, competencies, and roles; work in full cooperation with other professional disciplines to meet the needs of students and families; and avoid multiple relationships that diminish their professional effectiveness.

1. Accurate Presentation of Professional Qualifications. LSSPs accurately identify their professional qualifications to others.
   a. Competency levels, education, training, experience, and certification and licensing credentials are accurately represented to clients, recipients of services, and others. LSSPs correct any misperceptions of their qualifications. LSSPs do not represent themselves as specialists in a particular domain without verifiable training and supervised experience in the specialty.
   b. LSSPs do not use affiliations with persons, associations, or institutions to imply a level of professional competence that exceeds that which has actually been achieved.

2. Forthright Explanation of Professional Services, Roles, and Priorities. LSSPs are candid about the nature and scope of their services.
   a. LSSPs explain their professional competencies, roles, assignments, and working relationships to recipients of services and others in their work setting in a forthright and understandable manner. School psychologists explain all professional services to clients in a clear, understandable manner (see §4205.A.1.b).

b. LSSPs make reasonable efforts to become integral members of the client service systems to which they are assigned. They establish clear roles for themselves within those systems while respecting the various roles of colleagues in other professions.
   c. LSSPs communicate to school administration and staff their commitment to protecting the rights and welfare of clients is communicated to the school administration, staff, and others as the highest priority in determining services.
   d. LSSPs who provide services to several different groups (e.g., families, teachers, classrooms) may encounter situations in which loyalties are conflicted. As much as possible, LSSPs make known their priorities and commitments in advance to all parties to prevent misunderstandings.
   e. LSSPs ensure that announcements and advertisements of the availability of their publications, products, and services for sale are factual and professional. They do not misrepresent their degree of responsibility for the development and distribution of publications, products, and services.

3. Respecting Other Professionals. To best meet the needs of children, LSSPs cooperate with other professionals in relationships based on mutual respect.
   a. To meet the needs of children and other clients most effectively, LSSPs cooperate with other psychologists and professionals from other disciplines in relationships based on mutual respect. They encourage and support the use of all resources to serve the interests of students. If a child or other client is receiving similar services from another professional, LSSPs promote coordination of services.
   b. If a child or other client is referred to another professional for services, LSSPs ensure that all relevant and appropriate individuals, including the client, are notified of the change and reasons for the change. When referring clients to other professionals, LSSPs provide clients with lists of suitable practitioners from whom the client may seek services.
   c. Except when supervising graduate students, LSSPs do not alter reports completed by another professional without their permission to do so.

4. Multiple Relationships and Conflicts of Interest. LSSPs avoid multiple relationships and conflicts of interest that diminish their professional effectiveness.
   a. This Chapter provides standards for professional conduct. LSSPs, in their private lives, are free to pursue their personal interests, except to the degree that those interests compromise professional effectiveness.
   b. LSSPs refrain from any activity in which conflicts of interest or multiple relationships with a client or a client's family may interfere with professional effectiveness. LSSPs attempt to resolve such situations in a manner that provides greatest benefit to the client. LSSPs whose personal or religious beliefs or commitments may influence the nature of their professional services or their willingness to provide certain services inform clients and responsible parties of this fact. When personal beliefs, conflicts of interests, or multiple relationships threaten to diminish professional effectiveness or would be viewed by
the public as inappropriate, LSSPs ask their supervisor for reassignment of responsibilities, or they direct the client to alternative services.

c. LSSPs do not exploit clients, supervisors, or graduate students through professional relationships or condone these actions by their colleagues. They do not participate in or condone sexual harassment of children, parents, other clients, colleagues, employees, trainees, supervisees, or research participants. LSSPs do not engage in sexual relationships with individuals over whom they have evaluation authority, including college students in their classes or program, or any other trainees, or supervisees. LSSPs do not engage in sexual relationships with their current or former pupil-clients; the parents, siblings, or other close family members of current pupil-clients; or current consultees.

d. LSSPs are cautious about business and other relationships with clients that could interfere with professional judgment and effectiveness or potentially result in exploitation of a client.

e. The LSSPs' financial interests in a product (e.g., tests, computer software, professional materials) or service can influence their objectivity or the perception of their objectivity regarding that product or service. For this reason, LSSPs are obligated to disclose any significant financial interest in the products or services they discuss in their presentations or writings if that interest is not obvious in the authorship/ownership citations provided.

f. LSSPs neither give nor receive any remuneration for referring children and other clients for professional services.

g. LSSPs do not accept any remuneration in exchange for data from their client database without the permission of their employer and a determination of whether the data release ethically requires informed client consent.

h. LSSPs who provide school-based services and also engage in the provision of private practice services (dual setting practitioners) recognize the potential for conflicts of interests between their two roles and take steps to avoid such conflicts. Dual setting practitioners:

i. are obligated to inform parents or other potential clients of any psychological and educational services available at no cost from the schools prior to offering such services for remuneration;

ii. may not offer or provide private practice services to a student of a school or special school program where the practitioner is currently assigned;

iii. may not offer or provide private practice services to the parents or family members of a student eligible to attend a school or special school program where the practitioner is currently assigned;

iv. may not offer or provide an independent evaluation as defined in special education law for a student who attends a local or cooperative school where the practitioner is employed;

v. do not use tests, materials, equipment, facilities, secretarial assistance, or other services belonging to the public sector employer unless approved in advance by the employer;

vi. conduct all private practice outside of the hours of contracted public employment;

vii. hold appropriate credentials for practice in both the public and private sectors.

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: H 829 (Feb. 2023)

§4211. Responsibility to Schools, Families, Communities, the Profession, and Society

A. LSSPs promote healthy school, family, and community environments. They assume a proactive role in identifying social injustices that affect children and schools and strive to reform systems-level patterns of injustice. They maintain the public trust in LSSPs by respecting law and encouraging ethical conduct. LSSPs advance professional excellence by mentoring less experienced practitioners and contributing to the school psychology knowledge base.

1. Promoting Healthy School, Family, and Community Environments. LSSPs use their expertise in psychology and education to promote school, family, and community environments that are safe and healthy for children.

a. To provide effective services and systems consultation, LSSPs are knowledgeable about the organization, philosophy, goals, objectives, culture, and methodologies of the settings in which they provide services. In addition, LSSPs develop partnerships and networks with community service providers and agencies to provide seamless services to children and families.

b. LSSPs use their professional expertise to promote changes in schools and community service systems that will benefit children and other clients. They advocate for school policies and practices that are in the best interests of children and that respect and protect the legal rights of students and parents.

2. Respect for Law and the Relationship of Law and Ethics. LSSPs are knowledgeable of and respect laws pertinent to the practice of school psychology. In choosing an appropriate course of action, they consider the relationship between law and their professional ethics herein.

a. LSSPs recognize that an understanding of the goals, procedures, and legal requirements of their particular workplace is essential for effective functioning within that setting.

b. LSSPs respect the law and the civil and legal rights of students and other clients. The Ethical Standards for LSSPs promulgated under this Chapter may require a more stringent standard of conduct than law, and in those situations LSSPs are expected to adhere to this Chapter.

c. When conflicts between ethics and law occur, LSSPs take steps to resolve the conflict through positive, respected, and legal channels. If not able to resolve the conflict in this manner, they may abide by the law, as long as the resulting actions do not violate basic human rights.

d. LSSPs may act as individual citizens to bring about change in a lawful manner. They identify when they are speaking as private citizens rather than as employees. They also identify when they speak as individual professionals rather than as representatives of a professional association.
e. Maintaining Public Trust by Self-Monitoring and Peer Monitoring. LSSPs accept responsibility to monitor their own conduct and the conduct of other LSSPs to ensure it conforms to ethical standards.

f. LSSPs know the Ethical Standards for LSSPs and thoughtfully apply them to situations within their employment context. In difficult situations, LSSPs consult experienced licensed psychologists, LSSPs or the Licensed Specialist in School Psychology Advisory Committee to the Louisiana State Board of Examiners of Psychologists.

g. When an LSSP suspects that another LSSP or another professional has engaged in unethical practices, the LSSP attempts to resolve the suspected problem through a collegial problem-solving process, if feasible.

h. If a collegial problem-solving process is not possible or productive, LSSPs take further action appropriate to the situation, including discussing the situation with a supervisor in the employment setting, consulting state association ethics committees, and, if necessary, filing a formal ethical violation complaint with the Louisiana State Board of Examiners of Psychologists and/or other appropriate regulatory agency in accordance with their procedures.

3. Contributing to the Profession by Mentoring, Teaching, and Supervision. As part of their obligation to students, schools, society, and their profession, LSSPs mentor less experienced practitioners and graduate students to assure high quality services, and they serve as role models for sound ethical and professional practices and decision making.

a. LSSPs who serve as directors of graduate education programs provide current and prospective graduate students with accurate information regarding program accreditation, goals and objectives, graduate program policies and requirements, and likely outcomes and benefits.

b. LSSPs who supervise practicum students and interns are responsible for all professional practices of the supervisees. They ensure that practicum students and interns are adequately supervised as outlined in the NASP Graduate Preparation Standards for School Psychologists. Interns and graduate students are identified as such, and their work is assigned by the supervising LSSP.

c. LSSPs who employ, supervise, or train professionals provide appropriate working conditions, fair and timely evaluation, constructive supervision, and continuing professional development opportunities.

d. LSSPs who are faculty members at universities or who supervise graduate education field experiences apply these ethical principles in all work with school psychology graduate students. In addition, they promote the ethical practice of graduate students by providing specific and comprehensive instruction, feedback, and mentoring.

4. Contributing to the School Psychology Knowledge Base. To improve services to children, families, and schools, and to promote the welfare of children, LSSPs are encouraged to contribute to the school psychology knowledge base by participating in, assisting in, or conducting and disseminating research.

a. When designing and conducting research in schools, LSSPs choose topics and employ research methodology, research participant selection procedures, data-gathering methods, and analysis and reporting techniques that are grounded in sound research practice. LSSPs identify their level of training and graduate degree to potential research participants.

b. LSSPs respect the rights, and protect the well-being, of research participants. LSSPs obtain appropriate review and approval of proposed research prior to beginning their data collection.

i. Prior to initiating research, LSSPs and graduate students affiliated with a university, hospital, or other agency subject to the U.S. Department of Health and Human Services (DHHS) regulation of research first obtain approval for their research from their Institutional Review Board for Research Involving Human Subjects (IRB) as well as the school or other agency in which the research will be conducted. Research proposals that have not been subject to IRB approval should be reviewed by individuals knowledgeable about research methodology and ethics and approved by the school administration or other appropriate authority.

ii. In planning research, LSSPs are ethically obligated to consider carefully whether the informed consent of research participants is needed for their study, recognizing that research involving more than minimum risk requires informed consent, and that research with students involving activities that are not part of ordinary, typical schooling requires informed consent. Consent and assent protocols provide the information necessary for potential research participants to make an informed and voluntary choice about participation. LSSPs evaluate the potential risks (including risks of physical or psychological harm, intrusions on privacy, breach of confidentiality) and benefits of their research and only conduct studies in which the risks to participants are minimized and acceptable.

c. LSSPs who use their assessment, intervention, or consultation cases in lectures, presentations, or publications obtain written prior client consent or they remove or disguise identifying client information.

d. LSSPs do not publish or present fabricated or falsified data or results in their publications and presentations.

e. LSSPs make available their data or other information that provided the basis for findings and conclusions reported in publications and presentations, if such data are needed to address a legitimate concern or need and under the condition that the confidentiality and other rights of research participants are protected.

f. If errors are discovered after the publication or presentation of research or other information, LSSPs make efforts to correct errors by publishing errata, retractions, or corrections.

g. LSSPs only publish data or other information that make original contributions to the professional literature. They do not report the same study in a second publication without acknowledging previous publication of the same data. They do not duplicate significant portions of their own or others’ previous publications without permission of copyright holders.

h. When publishing or presenting research or other work, LSSPs do not plagiarize the works or ideas of others. They appropriately cite and reference all sources, print or digital, and assign credit to those whose ideas are reflected.
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, 1405, 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 Jalynne Brown, Richard Niolon, Ph.D., Kim VanGeffen, Ph.D., Dr. Chelsey Mahler, Beth Arrendondo, Chloe Brubaker, Stevie Faust, Lacey Moffatt, 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 listerv, 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
Conflicting statements regarding Grandfathering were raised:

- "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."

- "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.

LSBEP’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 transitional 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 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.

迦 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 avoids 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.

迦 Summary of questions, concerns and suggestions received related to proposed rules regarding Telepsychology/Telesupervision.

• Concerns were raised regarding the specific language proposed in §1403. & §1409. E.4. Telesupervision and Telepsychology 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 Telepsychology/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.

迦 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

NOTICE: [A.R.S.42.14.D. Public comments] - In accordance with A.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.