

# LSBEP Opinions

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## **OPINION NO. 001: PSYCHOPHARMACOLOGY ASSESSMENT AND/OR CONSULTATION**

July 30, 1999

It is the opinion of the Louisiana State Board of Examiners of Psychologists that it is within the scope of practice of psychology to gain competence in the field of psychopharmacology. Psychologists who gain competence in psychopharmacology may provide consultation to professionals regarding psychotropic medications.

## **OPINION NO. 002: CLINICAL/COUNSELING EXPERIENCE**

September 24, 1999; Revised 7/16/04

Professional activities having a requisite number of years of clinical or counseling experience may include activities performed with the designated specialties of clinical, counseling, school, or clinical neuropsychology, however, such requisite experience shall not include internship or any other experience or activities prior to licensure.

## **OPINION NO. 003: BROADCAST ASSESSMENT AND/OR INTERVENTION**

February 4, 2000

It is the opinion of the Louisiana State Board of Examiners of Psychologists that although the topic of Media Presentations is addressed in Standard 3.04 Media Presentations further clarification of this area of practice is needed due to the potential for harm to the public as this practice area expands. According to Standard 3.04:

When psychologists provide advice or comment by means of public lectures, demonstrations, radio or television programs, prerecorded tapes, printed articles, mailed material, or other media, they take reasonable precautions to ensure that (1) the statements are based on appropriate psychological literature and practice, (2) the statements are otherwise consistent with this Ethics Code, and (3) the recipients of this information are not encouraged to infer that a relationship has been established with them personally.

### **Background**

It is clear that media activity is not per se unethical. However, psychologists who practice in this area need to be especially careful regarding potential violation of Ethical Principles 1.03 (Professional and Scientific Relationships) and 1.19 (Exploitive Relationships). Entertainment is frequently the foremost purpose of broadcast mental health presentations but the mental health professional must never allow entertainment considerations to outweigh or dilute the principles of ethical mental health practice. Data are not readily available on the effects of media psychology on the consumer.

### **Suggestions for Ethical Media Practice**

Those who enter this practice area are advised to be aware of ethical considerations, the rules of the Federal Communications Commission (FCC), and suggestions for ethical practice which have been developed by the Association for Media Psychology. Special attention should be paid to Ethical Principle 1.19a (Exploitive Relationships).

If participating in a call-in format, the psychologist should assure that all calls are screened off air and such screening procedures be developed by the psychologist rather than

the show's producer. Whoever is responsible for such screening should receive sufficient training, analogous to that provided to crisis line workers, so that immediate referral to appropriate community resources is made for those callers who need such assistance.

Disclaimers should be developed for media shows. These disclaimers should include the fact that the presentation is not considered to provide a therapeutic relationship and that some individuals may be placed on hold for a period of time prior to being heard. Note should also be made that some callers may be referred for individual professional assistance rather than being heard "on air."

Media professionals need to be aware of those areas of concern which are most likely to arise in this setting and to be aware of their limitations of knowledge in those areas. Typical areas of concern are marriage issues, child care and discipline, various forms of emotional distress, issues of sexuality including contraception, addictions, and career issues. There is also a special need to be aware of cultural, ethnic, and special interest group differences which may impact responses but that such group membership may not be obvious in a call-in format.

Given the limited contact with the person available in call-in format media work, psychologists should avoid making suggestions for major life changes, criticism of reported prior forms of intervention, specific diagnosis of problems. In order to make the limitations of such presentations clear, a standard disclaimer should be developed and aired repeatedly on the program.

If asked to serve as a guest on a talk show, psychologists should be clear about their role. It is best to view the show before agreeing to participate. If the psychologist finds that the show exploits guests this may be a situation in which the psychologist may be in a position to influence the show's producers by explaining the parts of the Ethics Code which led the psychologist to decline the offer.

Because this practice area is relatively new, this is also an area where peer consultation should be used in any case in which the psychologist has questions about the ethics of the situation.

## **OPINION No. 004: REPEALED**

Repealed February 10, 2006

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## **OPINION No. 005: ADVERTISEMENT**

December 8, 2000

It is the opinion of the LSBEP that advertisement is defined as any form of public dissemination of information, announcement, or listing of services of a psychological nature as defined in the practice of psychology, including but not limited to radio, television, newspaper, magazine, telemarketing, internet, webpage, business card, stationery, flyer or brochure, telephone, yellow pages, outdoor advertising including business signs, building directories, billboards, etc.

It shall be considered a violation of §709 Conduct of Supervision for any supervising psychologist to promote the services of any supervisee via advertisement of any nature. Violators will be subject to disciplinary action such as suspension.

No psychologist shall advertise services for which he is not trained or certified to perform as documented by transcript of coursework or approved continuing education.

## **OPINION NO. 006: RECORDS RETENTION**

March 9, 2001; Revised 8/25/10; Statutory References last updated 5/13/16

In light of the absence of a generally accepted standard or rule for the retention of patient records, the Louisiana State Board of Examiners of Psychologists establishes the following Opinion which includes reference to the State of Louisiana RS 40:1165.1, pertaining to health care information records and is in accord with this statute as it applies to a “health care provider” as defined in LA R.S. 40:1231.1.

Further, RS 40:1165.1(3)(a) states: “Medical and dental records shall be retained by a physician or dentist in the original, microfilmed, or similarly reproduced form for a minimum period of six years from the date a patient is last treated by a physician or dentist.” It should be noted here that state law is silent on the distinction between records of adults vs. minors.

The current guidelines from APA governing record retention state: “In the absence of a superseding requirement, psychologists may consider retaining full records until 7 years after the last date of service delivery for adults or until 3 years after a minor reaches the age of majority, whichever is later. In some circumstances, the psychologist may wish to keep records for a longer period, weighing the risks associated with obsolete or outdated information, or privacy loss, versus the potential benefits associated with preserving the records (See Guideline 8).” In the State of Louisiana, age of majority is considered to be 18 years of age (Guideline #7: American Psychologist, Vol. 62, No. 9, p.999, December 2007).

Individual circumstances and the discretion of the psychologist may warrant retention beyond these times. Retention of financial records pertaining to patients may fall under other state or federal standards and the psychologist may wish to consult a certified professional accountant, attorney or other financial expert. The psychologist should be acquainted with the Ethical Standards related to the preserving of records and data (LAC, Chapter 13, Ethical Principle 6.01; 6.02) as well as other Louisiana laws related to this issue.

It should also be noted that HIPAA does require that you maintain certain documents required by the law - such as policies and procedures manuals and records of certain disclosures -for six years from the date of creation or the date when the document was in effect, whichever is later. For example, if you implement new HIPAA policies and procedures today, you must keep a copy of the now outdated policies and procedures for another six years. However, HIPAA does not govern how long clinical records themselves must be maintained (APA Practice Update, September 2008).

Considering all of the above references and that the APA guidelines do not mandate adherence in the presence of other relevant statutory requirements, it is the opinion of the Louisiana State Board of Examiners that each psychologist should formally establish a comprehensive record retention policy and plan for their practice that establishes the minimum record retention period to comply with RS 40:1165.1(3)(a) and this can apply to records of both adults and minors. Electronic health records should be treated the same as paper records (See APA Record Keeping Guideline #8). This record retention policy and plan should be written and become part of the office policy and procedures. Such information should also be communicated to clients as part of the general discussion of how the practice manages protected health information (PHI) under HIPAA (part of the Notice of Privacy Practices) and the records containing such PHI.

There may be compelling reasons for records to be maintained beyond the minimally required period under state statutes. By establishing a written record retention policy and plan, each psychologist can determine for their practice, what would be a reasonable record retention period given the use of records, the population of individuals who are receiving services, forensic involvement, etc.

Destruction of records should be accomplished using an acceptable methodology and compliant with all state and federal regulations pertaining to the protection and security of PHI. It would be advisable to keep a log of those records that have been destroyed, the date of last use, and the date of destruction.

Records maintained within organizational settings are controlled by policies and procedures of the organization and should be examined by the psychologist employee/contractor to insure that they comply with state law, ethical principles of the APA, and federal statutory requirements (for example HIPAA).

### ***References and resources:***

*Ethical Principles of Psychologists and Code Of Conduct (2002)*, American Psychological Association; <http://www.apa.org/ethics/code/index.aspx>;

*APA Record Keeping Guidelines (American Psychologist, Vol. 62, No. 9, 2007)*; <http://www.apa.org/practice/guidelines/record-keeping.pdf>;

APA Practice Directorate Updates (2008): <http://www.apapracticecentral.org/update/2008/09-30/client-record-retention.aspx>;

RS 40:1299.96: <http://www.legis.state.la.us/lss/lss.asp?doc=97291>;

*Louisiana Administrative Code, Title 49, Chapter 13.*

Louisiana Secretary of State, Records Management Division: <http://www.sos.louisiana.gov/tabid/487/Default.aspx>;

### **OPINION NO. 007: DATE OF DOCTORAL DEGREE**

March 9, 2001

RS 37:2356.A.4 requires an applicant for licensure in Louisiana to hold a doctoral degree with a major in psychology from a school or college as defined in that same chapter.

It is the Opinion of the Board of Examiners of Psychologists that the date an applicant actually “holds” their degree is the date which is reflected on their transcript from the school or college from which the degree was obtained.

### **OPINION NO. 008: SUPERVISION OF UNLICENSED ASSISTANTS**

March 9, 2001

The Board eliminated the procedure of registering unlicensed assistants commencing July 1, 1998. This was not set forth to be considered as ongoing policy, which would not change according to trends regarding the functions of the unlicensed assistant or the supervisor.

The Opinion of the Board is that the supervisor shall make arrangements for supervision in his or her absence. In the case of prolonged illness or absence, the supervisor should designate another licensed psychologist to perform as full supervisor with all of the responsibilities of the original supervisor. In like manner, this means that the legal and professional responsibility for the welfare of all clients would be transferred to the temporary supervisor. Therefore, the same responsibility of “functional authority” over the psychological services, which are provided by the unlicensed assistant, would be legally and professionally expected of the temporary supervisor. The Opinion of the Board is that the Board would not need to be notified of this temporary change of supervisor.

### **OPINION NO. 009: PRESENTERS OF EDUCATIONAL SERVICES ON PSYCHOLOGICAL TOPICS**

December 7, 2001

It is the sense of the Louisiana State Board of Examiners of Psychologists that a person does not need to be licensed as a psychologist in this state in order to provide educational programs here on psychological topics. However, in order to present him(her)self as a psychologist in this state in the course of presenting an educational program, the person must either be 1) licensed in Louisiana, 2) licensed in another jurisdiction, 3) a psychology faculty member at a university, or 4) an acceptable sponsor of continuing education as defined by LA Statute 805.

This statement assumes that the program is educational and not therapeutic. A license to practice psychology in Louisiana or supervision by or association with a Louisiana psychologist would be required to conduct a therapeutic program in this state that is either labeled as being “psychological” or in which the person conducting it presents him(her)self as a psychologist.

### **OPINION NO. 010: QUALIFICATIONS OF A SUPERVISING PSYCHOLOGIST**

June 14, 2002

It is the opinion of the Louisiana State Board of Examiners of Psychologists (LSBEP) that in order to meet the supervisor duties and qualifications described in Sections 701 and 705 of the Louisiana Administrative Code, Title 46, Part LXIII, typically the supervising psychologist shall have been licensed for a minimum of one year and supervise no more than two candidates for licensure at the same time. On a case-by-case basis, at the discretion of the LSBEP, exceptions to these requirements may be granted. The LSBEP retains the right to approve or deny any supervisory relationship

### **OPINION NO. 011: PSYCHOLOGISTS ORDERING MEDICAL TESTS**

March 14, 2003; Revised 9/10/2004

Except for Medical Psychologists practicing under the provisions of R.S. 37:2371-2378, it is generally advisable for psychologists to avoid ordering medical tests. This is particularly true if the psychologist is considered the primary caregiver. If the psychologist is the primary caregiver and has reason to believe there is physical pathology, referral to a physician is generally the appropriate course of action.

### **OPINION NO. 012: SUPERVISION OF PSYCHOLOGY STUDENTS/INTERNS/POST-DOCS TOWARD LICENSURE**

October 20, 2010; Revised 5/13/2011

In October 2010, the Louisiana State Board of Examiners of Psychologists (LSBEP) rendered Opinion #012 on the supervision of psychology students/interns/post-docs toward licensure by Medical Psychologists. At that time, this opinion was based on an examination of the statutes created under ACT 251 of the 2009 legislature and the statute that give LSBEP regulatory authority over psychologists who are defined in LA R.S. 37:2352(6). LSBEP using a conservative interpretation of the respective statutes determined that because LAC Title 46, Part 63, Chapter 7, section 705(A) in part states: "Responsibility for the overall supervision of the supervisee's professional growth resides in the licensed psychologist," that the 'psychologist' referred to here is someone who meets the definition in LA R.S. 37:2352(6). Therefore, LSBEP felt that only those psychologists who were currently licensed by LSBEP may be clinical supervisors of those individuals who need such supervision to meet the requirements for licensure under LAC Title 46, Part 63, Chapter 7.

Since this opinion was rendered, Dr. John Bolter, representing the Medical Psychologist Advisory Committee (MPAC) and Dr. Robert Marier, representing the Louisiana State Board of Medical Examiners (LSBME) has each formally requested that LSBEP reconsider the opinion rendered in October of 2010. These representatives presented evidence from the respective statutes and from prior LSBEP actions, particularly related to approving supervision of applicants and candidates for licensure by psychologists who are licensed in states other than Louisiana. Had LSBEP used Opinion 012 of 10.19.10, it should have declared that supervision to be invalid based on the argument that those out of state psychologists did not meet the statutory definition of 'psychologist' under R.S. 37:2352(6).

This has not been the case as LSBEP routinely accepts that psychologists duly licensed by other jurisdictions can be supervisors of those seeking licensure by LSBEP. LSBEP further sought a legal opinion from its attorney and that opinion confirmed that medical psychologists (MPs) could act as valid supervisors in this context. This was based on a broader interpretation of the applicable sections under Chapter 28 of the Revised Statutes, particularly Subpart A of Section 2365 that expressly authorizes those duly licensed as medical psychologists by LSBME to represent themselves as psychologists.

Therefore, based on an examination of the evidence presented above, LSBEP now revises Opinion 012, to state that MPs may supervise psychology interns/students/post-docs toward licensure. This opinion also creates an understanding that LSBEP does not have direct regulatory control over supervisors not licensed by LSBEP. Should a complaint arise based on the supervisory relationship, LSBEP would have the authority to investigate and based on the outcome of that investigation, take appropriate action against a Louisiana licensee. LSBEP does not have that authority when the psychologist is licensed in another jurisdiction. LSBEP's only option in that circumstance is to submit a complaint to the board with jurisdiction. The same would hold true if a complaint was filed against an MP acting as supervisor. In this case, LSBEP could only file a complaint with LSBME. It is hoped that no such action will be necessary but if it does occur, that LSBEP and LSBME would work together to find the most appropriate method to fulfill our obligations to protect the public through the proper exercise of regulatory control.

### **OPINION NO. 013: TELEPSYCHOLOGY**

April 5, 2012

Telepsychology means the practice of psychology as those terms are defined in LAC Title 37 Section 2352(5), by distance communication technology such as but not necessarily limited to telephone, email, Internet-based communications and videoconferencing. It is the opinion of the Louisiana State Board of Examiners of Psychologists that in order to practice telepsychology within the State of Louisiana, one must hold a current, valid license issued by the Louisiana State Board of Examiners or shall be a supervisee of a licensee being delegated telepsychology practices. One must abide by all federal and state laws and regulations in the practice of telepsychology (e.g. HIPPA).

Licensees should understand that this rule does not authorize licensees to practice telepsychology in service to clients domiciled in jurisdictions other than Louisiana, and licensees bear the responsibility for complying with laws, rules and/or policies for the practice of telepsychology set forth by other jurisdictional boards of psychology. Licensees practicing telepsychology shall comply with all of the rules of professional conduct. Licensees should also recognize that telepsychology is not appropriate for all psychological problems and clients, and decisions regarding the appropriate use of telepsychology are made on a case-by-case basis.

### **OPINION NO. 014: MANDATORY REPORTING OF CHILD ABUSE**

July 13, 2012

It is the Louisiana State Board of Examiners of Psychologists [LSBEP] opinion that in order to provide the greatest possible protection, as promptly as possible, for endangered children, psychologists should refer to and abide by Children's Code Article 609 and 610, as well as LA R.S. §14:403. Furthermore, It is the opinion of the LSBEP that psychologists are mandatory reporters and shall report suspected child abuse or neglect to the appropriate agency, regardless if it is a concurrent report.

### **OPINION NO. 015: SPECIAL ACCOMMODATIONS**

April 19, 2013

It is the Louisiana State Board of Examiners of Psychologists [LSBEP] opinion that any candidate with documented disabilities or impairments may be granted the opportunity to be tested under nonstandard conditions so long as appropriate supporting information is supplied to the Board along with the request for special accommodations. The LSBEP will recognize and accept supporting documentation from a current treating physician or psychologist who evaluated the individual within the past 3 years. It is the LSBEP's authority to review, approve and/or deny all requests for special accommodations.

### **OPINION NO. 016: PROFESSIONAL WILLS**

May 10, 2013

The Louisiana State Board of Examiners of Psychologists [hereinafter "Board"] opines that all licensees should prepare and execute a Professional Will. It is our opinion that a Professional Will is an important tool in preparation for unexpected events. A Professional Will is a detailed set of instructions, including specific information regarding location of and access to records, research materials and patient information, to an appointed team of trusted colleagues who will serve as professional executors upon the event of a death or incapacitation. The Board further opines that a Professional Will represents a way of providing care to consumers and sparing family members the obligation.

### **OPINION NO. 017: RETENTION OF CONTINUING EDUCATION RECORDS**

September 13, 2013

The Louisiana State Board of Examiners of Psychologists (LSBEP) opines that all Louisiana licensed psychologists should retain continuing education records for 6 years from the last renewal date. Continuing education records include but are not limited to: certificates of attendance and certificates of completion.

## **OPINION NO. 018: PSYCHOLOGIST ADVERTISING AS BEHAVIOR ANALYSTS**

December 13, 2013; Updated October 20, 2017

The Louisiana State Board of Examiners of Psychologists [LSBEP] issues this opinion pursuant to the Behavior Analyst Practice Act – Act 351. This opinion is for the purpose of clarification that psychologists cannot advertise as “Behavior Analysts” unless licensed by the Louisiana Behavior Analyst Board.

It is the opinion of the LSBEP that a Licensed Psychologist does not need to be dually licensed to engage in the practice of behavior analysis or the treatment of individuals needing such services. However, for Licensed Psychologists who choose to be dually licensed with the Louisiana Behavior Analysis Board (LBAB), and represent themselves as a “Behavior Analyst” or “Assistant Behavior Analyst”; who supervise individuals who represent themselves as a “Line technician” or “registered line technician”; or who are supervising individuals for licensure with the LBAB, or providing supervision to “Line technicians” or “registered line technicians”, then in these instances, it is clear that such individuals who are advertising these titles fall under the governance of the LBAB.

Additionally, a Licensed Psychologist may employ assistants to facilitate the provision of psychological services under their supervision and functional authority. The requirements for the utilization of psychological assistants and supervisory guidelines may be found in the Louisiana Administrative Code, Title 46, Part LXIII., Chapter 11 (attached).

## **OPINION NO. 019: PSYCHOLOGIST EMERGENCY CERTIFICATE**

MAY 13, 2016; AMENDED DECEMBER 16, 2016.

The Louisiana State Board of Examiners of Psychologists [LSBEP] opines that it is within the scope of practice for a qualified psychologist to execute a Psychologist Emergency Certificate in accordance with LA R.S. 28:53.

## **OPINION NO. 020: SEXUAL ORIENTATION CHANGE EFFORTS, INCLUDING “CONVERSION THERAPY”**

MARCH 3, 2017

The Louisiana State Board of Examiners of Psychologists [LSBEP], in accordance with policy and position statements published by national organizations including the American Psychological Association, the National Association of Social Workers, the American Counseling Association, the American Academy of Child and Adolescent Psychiatry, the National Association of School Psychologists, and the American Medical Association, recognizes that interventions referred to as “sexual orientation change efforts” including, but not limited to, “conversion therapy” and “reparative therapy,” are not supported by empirical evidence. Moreover, evidence shows that treatment which is based upon the assumption that homosexuality per se is a mental disorder or

based upon the a priori assumption that a patient should change his/her sexual orientation may have deleterious effects.

Further, this Board opines that individuals licensed under this Board could be subject to charges of misconduct and disciplinary action for offering to provide or engaging in the practice of providing such interventions. Individuals licensed under this Board adhere to the American Psychological Association's Ethical Principles of Psychologists and Code of Conduct adopted by the LSBEP under the Louisiana Administrative Code, Title 46 Part LXIII. Psychologists Chapter 13. Relevant Standards include 3.04 Avoiding Harm, 2.01(b) Boundaries of Competence, 2.04 Bases for Scientific and Professional Judgments, and 5.01(b) Avoidance of False or Deceptive Statements.

## **OPINION NO. 021: PROVISION OF EDUCATIONAL SERVICES TO STUDENTS IN POSTSECONDARY EDUCATION BY A LICENSED SPECIALIST IN SCHOOL PSYCHOLOGY**

JUNE 16, 2017

Colleges and universities provide accommodations for enrolled students with identified disabilities as required through the Americans with Disabilities Act of 1990. The institution supports these undergraduate and graduate students with services such as educational testing, review of formal evaluations, identification and implementation of appropriate accommodations, consultation with faculty, and skill development. An individual with an earned LSSP is qualified to provide educational and psychological assessment and recommendations related to school performance and educational needs. It is the opinion of the board that provision of school psychology services within a college or university disabilities center is within the scope of practice for an LSSP as stated in ACT No. 136. Licensees should understand that the services provided within a college or university disabilities center would remain within the scope of practice stated in ACT No. 136.

References:

*Americans with Disabilities Act. (1990). Public Law 101-336. 42 U.S.C. 12111, 12112.*

## **OPINION NO. 022: PROVISION OF SCHOOL PSYCHOLOGY SERVICES THROUGH EARLY STEPS**

JUNE 16, 2017

Early Steps is a program administered by the Louisiana Department of Health for infants and toddlers (aged 0-3) with delays in cognitive, motor, vision, hearing, communication, social-emotional and adaptive behaviors. The Department of Health implements early intervention for eligible children and their families as required by the United States Department of Education (34 CFR Part 303). The IDEA - Part C regulations include psychological services to eligible children within a multidisciplinary assessment and intervention framework. Professional staff are employed or contracted by the Department of Health to fulfill assessment and intervention needs of referred children.

Psychological services as described in § 303.13 are consistent with the qualifications of an Licensed Specialist in School Psychology (LSSP), and include:

“(i) Administering psychological and developmental tests and other assessment procedures; (ii) Interpreting assessment results; (iii) Obtaining, integrating, and interpreting information about child behavior and child and family conditions related to learning, mental health, and development; and (iv) Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.”

Historically, in Louisiana, Early Steps was administered through the State Department of Education and fully staffed by appropriately certified professional school system employees at the district level. Multidisciplinary teams for the Early Steps program typically include certified school psychologists, licensed social workers, occupational therapists, physical therapists, speech therapist, and other related disciplines. While the administration of the Early Steps program has moved to a different agency, there have not been significant changes to services provided to children and families.

It is the opinion of the board that an individual that is licensed with the LSBEP as a Licensed Specialist in School Psychology is qualified to provide school psychology services through the Early Steps program. The LSSP has the requisite training and professional practice history working within a multidisciplinary team format in the preparation of comprehensive integrated psychoeducational evaluation reports as well as service planning and implementation for individuals from birth through age 21. The licensee should understand that the scope of practice in providing these services remains consistent with ACT No. 136.

*Early Steps Policy Manual*

<http://ldh.louisiana.gov/assets/docs/OCDD/EarlySteps/FinalPolicyOctober2014OSEPJan2015.pdf>

*DEPARTMENT OF EDUCATION 34 CFR Part 303*

[http://ldh.louisiana.gov/assets/docs/OCDD/EarlySteps/Provider\\_Docs/ESPRFedRegister9-28-2011.pdf](http://ldh.louisiana.gov/assets/docs/OCDD/EarlySteps/Provider_Docs/ESPRFedRegister9-28-2011.pdf)

## **OPINION NO. 023: LSSP GRADUATE EQUIVALENCY**

SEPTEMBER 22, 2017

The Louisiana Administrative Code, Title 46, Part LXIII. Subpart 2, Chapter 34 sets forth the training program requirements for licensure as a Licensed Specialist in School Psychology and requires that a graduate of a specialist program may complete a program that is approved by the National Association of School Psychologists (NASP), or an equivalent certificate, from a university offering a full-time graduate program. The NASP criteria for program approval serves as a model for specialist-level training in school psychology.

Prior to 1988, the Nationally Certified School Psychologist (NCSP), did not exist. In 1989 the first certifications were issued. Therefore, individuals graduating from programs prior to 1989, did not have NASP program approval. However, those individuals have since been reviewed and were granted an NCSP by NASP. Therefore, it is the opinion of the Louisiana State Board of Examiners of Psychologists, that an individual who graduated from a non-NASP approved program, prior to 1989, who has held an NCSP, will be considered as meeting the “equivalent”

requirements of a NASP approved graduate training program, regardless of the current NASP certification status.

## **OPINION No. 024: LSSP SCOPE OF PRACTICE, ORDERING SERVICES**

SEPTEMBER 20, 2019

On September 20, 2019, the Board reviewed and discussed the legal opinion drafted by Attorney Courtney P. Newton. On that date, the following was adopted as a formal opinion of the LSBEP:

Ordering services is within the scope of practice of a licensed specialist in school psychology (hereinafter, “LSSP”) depending on the practice setting of the LSSP as follows:

a. The scope of practice for LSSPs either contracted or employed by the school system, including charter, public, and private schools, engaged in work germane with educational bulletins, including but not limited to Louisiana Bulletins 1508 and 1706, **does** include “ordering” services.

b. The scope of practice for LSSPs working outside the school system, and by law under the supervision of a psychologist or medical psychologist, **does not** encompass “ordering” services.

**NOTE:** For the purposes of this opinion, an “order” for services within the school setting by an LSSP includes recommendations for psychological evaluation, educational tests, and other assessment procedures, including interpreting results, and/or the planning implementation and management of psychological services and interventions.

La. R.S. 37:2352(6) defines the scope of practice of an LSSP. The essential elements of a LSSP’s scope of practice as defined in statute are as follows:

- 1) *Application* of psychological principles, methods, and procedures to help children and youth success academically, socially, behaviorally, and emotionally;
- 2) *Collaboration* with educators, parents, and other professionals to create safe, healthy, and supportive learning environments that strengthen the connection between home, school and the community for all students;
- 3) *Application* of knowledge of both psychology and education during consultation and collaboration with others;
- 4) *Conduct effective decision* making using a foundation of assessment and data collection;
- 5) *Provide services* to schools and families that enhance the competence and well-being of children;
- 6) *Performing evaluations* that are germane to the current state of educational bulletins, including but not limited to Louisiana Bulletins 1508 and 1706.

La. R.S. 37:2352 prohibits LSSP from diagnosing mental disorders as defined by the Diagnostic and Statistical Manual of Mental Disorders or diseases as defined by the International Classification of Diseases. La. R.S. 37:2356.3 further defines the scope of practice for LSSP drawing a distinction between the scope of practice and supervision requirements for those LSSPs working within the school system and those working outside the school system. Specifically, La. R.S. 37:2356.3.B.(1)(b) provides that

a licensed specialist in school psychology who is engaged [as an independent contractor] and working outside of the school system shall be required to do so **under the clinical supervision of a licensed psychologist or a medical psychologist... *The licensed psychologist or medical psychologist shall be administratively, clinically, and legally responsible for all professional activities of the licensed specialist in school psychology, and the licensed psychologist or medical psychologist shall be required to sign any final reports prepared by the licensed specialist in school psychology.*** (emphasis added).

These laws are further interpreted by L.A.C. Tit. 46, Part. LXIII, §§ 3501 – 4301 (hereinafter, “Rule”). Rule § 3501, entitled “Limits in Practice” provides, in part, as follows:

- A. Licensed specialists in school psychology shall apply their knowledge of both psychology and education to render services that are germane to the current state educational bulletins, including but not limited to *Louisiana Bulletins 1508 and 1706*.
- B. A licensed specialist in school psychology cannot diagnose mental disorders as defined by the Diagnostic and Statistical Manual of Mental Disorders or disease as defined by the International Classification of Diseases (emphasis added).

Based on the language of Rule §3501.A., Louisiana Bulletins 1508 and 1706 are incorporated by reference into the Rules governing LSSPs. Accordingly, they also provide guidance when interpreting the scope of practice set forth in La. R.S. 37:2352(6). Louisiana Bulletin 1508, §1511 as follows:

- A. Definition. School Psychological Services include but are not limited to:
  - 1. administering psychological and educational tests, and other assessment procedures;
  - 2. interpreting assessment results;
  - 3. obtaining, integrating, and interpreting information about student behavior and conditions relating to learning (which may also include assisting in the development of academic intervention strategies, progress monitoring, evaluating intervention and service delivery outcomes, conducting functional behavior assessments, and conducting program evaluations);
  - 4. consulting with other staff members in planning school programs to meet the special educational needs of students as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;

5. *planning and managing a program of psychological services*, including psychological counseling for students and parents (which may also include implementing and/or monitoring interventions, conducting social skills training, anger management/conflict resolution training, study skills training, substance abuse prevention, crisis prevention and intervention, parent skills training, and coordinating services with other community agencies.); and

6. assisting in developing positive behavioral intervention strategies. (emphasis added).

All other references to psychological services, evaluating, planning, managing, etc. in Louisiana Bulletin 1508 reference specifically “Certified School Psychologists” providing that Certified School Psychologists are legally authorized to engage in all such practices. Louisiana Bulletin 1706 references Louisiana Bulletin 1508.

The law bifurcates the scope of practice for LSSPs working or contracting outside of the school system from those working or contracting within the school system. La. R.S. 37:2356.3.B.(1)(b) mandates that those LSSPs working outside the school district must be supervised by a licensed psychologist or medical psychologist who is administratively, clinically, and legally responsible for all professional activities of the LSSP. The scope of practice for LSSPs working outside of the school system is further limited by the requirement that the supervising psychologist or medical psychologist sign any final reports prepared by the LSSP. In so requiring, the LSSP is making recommendations to be reviewed and approved by the supervising psychologist or medical psychologist. It is the supervising psychologist or medical psychologist that is legally placing an “order” for services.

Such supervision and limitation does not exist for LSSPs either contracting or employed by the school system. LSSPs working in a charter school, public school, or private school work in conjunction with other educational and healthcare professionals to evaluate and prepare a plan or “order” for services. Such authority is specifically provided or in Louisiana Bulletin 1508, §151 states that an LSSP is lawfully able to “plan and manage” a program for psychological services. In so “planning”, an LSSP is the professional with the authority to “order” or specify that a service be provided. Accordingly, it is squarely within the scope of practice for LSSPs working within the school system to “order” services.

## **OPINION No. 025: LSSP SCOPE OF PRACTICE, PRACTICE MODEL/CONTRACTS FOR SERVICES**

**JUNE 5, 2020**

On June 5, 2020 the Board rendered a formal opinion following request from the LSSP Committee related to a question received regarding practice models for an LSSP. Specifically, does the LSSP have to personally have a direct contractual relationship with a Local Educational Agency (LEA) vs. another mediating agency providing reimbursement that agency being the fiscal agent? In other words, is it appropriate for an LSSP to work in a school system under the umbrella of a mediating agency, where that agency is contracted with the LEA and providing

reimbursement to the LSSP. After review and careful consideration of the current statutory and regulatory provisions, the Board rendered an Opinion that the LSSP may provide school psychology services through a school or organization that the LSSP is contracted or employed with, as long as the originating referral of a student comes directly from a school, and that referral is for the purposes of obtaining an educational evaluation for student services within the school system; no referral may be accepted by an individual, guardian, parent, or other third party to provide independent psychological services to the public.