



**STATE OF WISCONSIN**  
Department of Safety and Professional Services  
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**Governor Scott Walker      Secretary Dave Ross**

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**PSYCHOLOGY EXAMINING BOARD MEETING**  
**Room 121C, 1400 E. Washington Avenue, Madison WI**  
**Contact: Dan Williams (608) 266-2112**  
**MARCH 25, 2013**

*Notice: The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions and deliberations of the Board.*

**11:00 A.M.**

**OPEN SESSION – CALL TO ORDER – ROLL CALL**

- A. **Adoption of Agenda (1-4)**
- B. **Approval of Meeting Minutes of February 6, 2013 (5-10)**
- C. **Administrative Matters – Discussion and Consideration**
  - 1) Paperless Initiative
  - 2) Staff Update
- D. **Position Statements – Discussion and Consideration (11-18)**
  - 1) Confidentiality/Liability
- E. **Legislation/Administrative Rule Matters – Discussion and Consideration**
  - 1) Executive Order 61 (19-20)
  - 2) Legislative Letter Regarding Concealed Carry Permits (21-30)
- F. **Items Received After Printing of the Agenda:**
  - 1) Introductions, Announcements and Recognition
  - 2) Presentations of Petition(s) for Summary Suspension
  - 3) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
  - 4) Presentation of Proposed Final Decision and Order(s)
  - 5) Informational Item(s)
  - 6) Division of Legal Services and Compliance Matters
  - 7) Education and Examination Matters
  - 8) Credentialing Matters
  - 9) Practice Questions/Issues
  - 10) Legislation/Administrative Rule Matters
  - 11) Liaison Report(s)
  - 12) Speaking Engagement(s), Travel, or Public Relation Request(s)
- G. **Informational Item(s)**
- H. **Public Comments**

**CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.; consider closing disciplinary investigation with administrative warning s.19.85(1)(b), Stats. and 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.)**

- I. **Monitoring Matters (31-32)**
  - 1) Todd Hamilton, Psy.D – Requesting Termination of Suspension **(33-38)**
  
- J. **Deliberation of Proposed Stipulation(s), Final Decision(s) and Order(s)**
  - 1) Scott Allen, Psy.D (12 PSY 032) **(39-44)**
  
- K. **Discussion and Consideration of the Petition for Rehearing in the Disciplinary Proceedings Against Raymond G. Lueck, Psy.D. (DHA # SPS-12-0020; DLSC # 11 PSY 032) (45-48)**
  - 1) DLSC Memorandum Opposing Petition for Rehearing **(49-62)**
  
- L. **Review of Applications for Licensure (63-64)**
  - 1) Linda Deters, Psy.D **(65-94)**
  - 2) Laura Ely, Ph.D **(95-126)**
  - 3) Shauna Ezell, Ph.D **(127-194)**
  - 4) Mary Fitzpatrick, Ph.D **(195-226)**
  - 5) Malekeh Hakami, Ph.D **(227-250)**
  - 6) Bryan Kolberg, Psy.D **(251-306)**
  - 7) Tracey Latza, Psy.D **(307-338)**
  - 8) Jennifer Muehlenkamp, Ph.D **(339-462)**
  - 9) Frank Orosz, Ph.D **(463-478)**
  - 10) Elena Petrova, Ph.D **(479-516)**
  - 11) Jessica Sawyer, Ph.D **(517-554)**
  - 12) Jillian Schuh, Ph.D **(555-594)**
  
- M. **Review of Additional Information Requested of Applicants for Licensure (63-64)**
  - 1) Rosemary Doyle, Psy.D **(595-600)**
  - 2) Julie Janecek, Ph.D **(601-604)**
  - 3) Sharon Gray, Ed.D **(605-656)**
  - 4) Christopher Daood, Ph.D
  - 5) Elizabeth Hansen Psy.D
  - 6) Stacey Hoem, Ph.D
  - 7) Sarah Kohlstedt, Ph.D.
  - 8) Jamie Roberts, Psy.D
  - 9) Keyona Walker, Ph.D
  - 10) Shanda Wells, Psy.D

N. **Oral Interview of Applicants for Licensure – Final Approval for Licensure (63-64)**

- 1) John Bayless, Ph.D
- 2) Christopher Daood, Ph.D
- 3) Rosemary Doyle, Psy.D
- 4) Sharon Gray, Ed.D
- 5) Elizabeth Hansen, Psy.D
- 6) Stacey Hoem, Ph.D
- 7) Julie Janecek, Ph.D
- 8) Sarah Kohlstedt, Ph.D
- 9) Sujatha Ramesh, Ph.D
- 10) Jamie Roberts, Psy.D
- 11) Keyona Walker, Ph.D
- 12) Shanda Wells, Psy.D
- 13) Erin Williams, Psy.D

O. Deliberation of Administrative Warning(s)

P. **Division of Legal Services and Compliance**

- 1) Case Status Report
- 2) Case Closings

Q. Deliberation of Items Received After Printing of the Agenda:

- 1) Application Issues and/or Reviews
- 2) Professional Assistance Procedure (PAP)
- 3) Monitoring Matters
- 4) Proposed Stipulations, Final Decisions and Orders
- 5) Administrative Warnings
- 6) Orders Fixing Costs/Matters Related to Costs
- 7) Proposed Final Decisions and Orders
- 8) Petitions for Summary Suspension
- 9) Petitions for Re-hearings
- 10) Case Closings
- 11) Education or Examination Matters
- 12) Review Additional Information Requested of Applicants for Licensure
- 13) Oral Interviews of Applicants for Licensure – Final Approval for Licensure
- 14) Review of Applications for Licensure
- 15) Supervision Reviews
- 16) Credential Issues
- 17) Appearances from Requests Received or Renewed
- 18) Motions

R. Consulting with Legal Counsel

**RECONVENE INTO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION**

Vote on Items Considered or Deliberated on in Closed Session, If Voting is Appropriate

DLSC – Signatures for Orders

**ADJOURNMENT**

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**PSYCHOLOGY EXAMINING BOARD  
MEETING MINUTES  
FEBRUARY 6, 2013**

**PRESENT:** Rebecca Anderson, Ph.D.; Bruce Erdmann, Ph.D.; Daniel Schroeder, Ph.D.;  
Melissa Westendorf, J.D., Ph.D.

**STAFF:** Dan Williams, Executive Director; Pamela Stach, Legal Counsel; Matt Niehaus, Bureau  
Assistant; and other Department Staff

**CALL TO ORDER**

Bruce Erdmann, Ph.D., Chair, called the meeting to order at 9:19 a.m. A quorum of four (4) members was present.

**ADOPTION OF AGENDA**

**MOTION:** Melissa Westendorf moved, seconded by Rebecca Anderson, to adopt the agenda as published. Motion carried unanimously.

**APPROVAL OF MEETING MINUTES OF DECEMBER 5, 2012**

**MOTION:** Melissa Westendorf moved, seconded by Daniel Schroeder, to approve the minutes of December 5, 2012 as published. Motion carried unanimously.

**PUBLIC HEARING ON ADMINISTRATIVE RULE PSY 2 RELATING TO APPLICANT  
APPEARANCE**

**Review and Respond to Clearinghouse Report and Public Hearing Comments**

**MOTION:** Rebecca Anderson moved, seconded by Daniel Schroeder, to acknowledge the appearance of Sarah Bowen and the Wisconsin Psychological Association before the Board to speak in favor of the proposed rule changes. Motion carried unanimously.

**SUICIDE PREVENTION EDUCATION**

**MOTION:** Melissa Westendorf moved, seconded by Daniel Schroeder, to thank Shel Gross and Janet McCord for appearing before the Board regarding suicide prevention education and possible regulatory modifications in regards to CE requirements. The Board welcomes any information provided by Shel Gross or Janet McCord regarding the standards for Washington or another state's law regarding CE requirements for suicide prevention as well as the accreditation process for suicide prevention CE. Motion carried unanimously.

**ADMINISTRATIVE MATTERS**

**MOTION:** Melissa Westendorf moved, seconded by Rebecca Anderson, that the record indicate the election of officers and delegation of liaisons as discussed below. Motion carried unanimously.

## Election of Officers

### Chair

**NOMINATION:** Melissa Westendorf nominated Bruce Erdmann for the Office of Chair.  
Nomination carried by unanimous vote.

Dan Williams called for other nominations three (3) times.

Bruce Erdmann was elected as Chair.

### Vice Chair

**NOMINATION:** Bruce Erdmann nominated Melissa Westendorf for the Office of Vice Chair.  
Nomination carried by majority vote.

Dan Williams called for other nominations three (3) times.

Melissa Westendorf was elected as Vice Chair.

### Secretary

**NOMINATION:** Melissa Westendorf nominated Rebecca Anderson for the Office of Secretary.  
Nomination carried by unanimous vote.

Dan Williams called for other nominations three (3) times.

Rebecca Anderson was elected as Secretary.

### Appointment of Liaisons

**Screening Panel:** Rebecca Anderson, Ph.D., Melissa Westendorf, J.D., Ph.D.

**Application Review Sub-Committee(s):** Daniel Schroeder, Ph.D., Bruce Erdmann, Ph.D.

**DLSC Monitoring Liaison:** Rebecca Anderson, Ph.D.

**Credentialing Liaison(s):** Daniel Schroeder, Ph.D., Bruce Erdmann, Ph.D.

**Continuing Education Liaison:** Daniel Schroeder, Ph.D.

**Practice Question Liaison(s):** Melissa Westendorf, J.D., Ph.D., Bruce Erdmann, Ph.D.

**Professional Assistance Procedure (PAP) Liaison(s):** Rebecca Anderson, Ph.D., Daniel Schroeder, Ph.D.

**MOTION:** Melissa Westendorf moved, seconded by Rebecca Anderson, to delegate authority to the Credentialing Liaison(s) to address all issues related to credentialing matters with the exception of denials during the application process. Motion carried unanimously.

**MOTION:** Melissa Westendorf moved, seconded by Daniel Schroeder that the Board delegates authority to the Chair or designated Board member to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair or

Board member has the ability to delegate this signature authority to the Executive Director for purposes of facilitating the completion of assignments during or between meetings. The Chair or Board member delegates the authority to the Executive Director, to sign the name of the Chair or Board member on documents as necessary. Motion carried unanimously.

**MOTION:** Rebecca Anderson moved, seconded by Daniel Schroeder, that, in order to facilitate the completion of assignments between meetings, the Board delegates its authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, to appoint liaisons to the Department where knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

#### **LICENSING STATUS FOR CREDENTIALS RENEWED WITH CONTINUING EDUCATION WAIVER DUE TO RETIREMENT**

**MOTION:** Melissa Westendorf moved, seconded by Daniel Schroeder, to request that DSPS staff for the next renewal cycle make a change to denote non-practicing status in the ICE database based upon continuing education waivers due to retirement consistent with what is described in PSY 4.02. Motion carried unanimously.

#### **LEGISLATION/ADMINISTRATIVE RULE MATTERS**

##### **Revisions to Administrative Rule PSY 4 Relating to Continuing Education**

**MOTION:** Daniel Schroeder moved, seconded by Rebecca Anderson, to designate Melissa Westendorf to provide recommendations for proposed changes for PSY 4 relating to Continuing Education. Motion carried unanimously.

##### **Review and Respond to Clearinghouse Report and Public Hearing Comments**

**MOTION:** Rebecca Anderson moved, seconded by Daniel Schroeder, to adopt all changes recommended by the Legislative Council Clearinghouse to CR 12-055. Motion carried unanimously.

**MOTION:** Rebecca Anderson moved, seconded by Daniel Schroeder, to authorize Melissa Westendorf to review and approve the Board's Legislative Report, including the final rule draft as prepared by DSPS staff. Motion carried unanimously.

##### **Executive Order 61**

**MOTION:** Rebecca Anderson moved, seconded by Daniel Schroeder, to authorize Daniel Schroeder to work with DSPS staff in regards to the directive of Executive Order 61. Motion carried unanimously.

## **CLOSED SESSION**

**MOTION:** Rebecca Anderson moved, seconded by Daniel Schroeder, to convene to closed session pursuant to Wisconsin State statutes 19.85(1)(a)(b)(f) and (g), for the purpose of conducting oral interviews, reviewing monitoring requests, requests to extend practice, application reviews, consulting with Legal Counsel and Division of Enforcement case status reports. Roll Call Vote: Rebecca Anderson, Ph.D.-yes; Bruce Erdmann, Ph.D.-yes; Daniel Schroeder, Ph.D.-yes; and Melissa Westendorf, J.D., Ph.D. Motion carried unanimously.

The Board convened into Closed Session at 11:45 a.m.

### **RECONVENE INTO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION**

**MOTION:** Rebecca Anderson moved, seconded by Daniel Schroeder, to reconvene into open session. Motion carried unanimously.

The Board reconvened into Open Session at 2:24 p.m.

### **VOTE ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION, IF VOTING IS APPROPRIATE**

**MOTION:** Melissa Westendorf moved, seconded by Daniel Schroeder, to affirm all motions made in closed session. Motion carried unanimously.

### **DELIBERATION OF PROPOSED STIPULATION(S), FINAL DECISION(S) AND ORDER(S)**

**David Prasse, Ph.D. (12 PSY 011)**

**MOTION:** Daniel Schroeder moved, seconded by Rebecca Anderson, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order in the matter of disciplinary proceedings against of David Prasse, Ph.D. (12 PSY 011). Motion carried unanimously.

### **DELIBERATION OF PROPOSED FINAL DECISION AND ORDER IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST RANDI ERICKSON, PSY.D., RESPONDENT (DHA CASE#SPS-12-0029)(DLSC CASE #11PSY033)**

**MOTION:** Melissa Westendorf moved, seconded by Daniel Schroeder, to adopt the proposed Final Decision and Order in the matter of the disciplinary proceedings against Randi Erickson, Psy.D. (DHA Case: #SPS-12-0029) (DLSC Case: #11 PSY 033). Motion carried unanimously.

### **REINSTATEMENT REVIEW FOR CHERYL ROSE BUECHNER, PH.D.**

**MOTION:** Melissa Westendorf moved, seconded by Rebecca Anderson, that DSPPS Credentialing staff contact Cheryl Rose Buechner, Ph.D. to provide certificates of attendance for continuing education that meet the requirements of PSY4.02. Motion carried unanimously.

## REVIEW OF ADDITIONAL INFORMATION REQUESTED OF APPLICANTS FOR LICENSURE

**MOTION:** Daniel Schroeder moved, seconded by Melissa Westendorf, to accept the additional information submitted by:

- Rosemary Doyle, Psy.D.
- Allison Jahn, Ph.D.
- Shaneen Meskew, Ph.D.
- Julia Myers, Psy.D.
- M. Christine Foskett, Psy.D.

Motion carried unanimously.

**MOTION:** Daniel Schroeder moved, seconded by Rebecca Anderson, to issue an intent to deny to India Gray-Schmiedlin, Ph.D. unless within 45 days she submits evidence of successful completion of the second 1,500 supervised hours of experience. Motion carried unanimously.

**MOTION:** Rebecca Anderson moved, seconded by Daniel Schroeder, to accept the additional information submitted by Maggie Kozmin, Psy.D. Motion carried. Recused: Bruce Erdmann

*(Melissa Westendorf, Vice Chair, assumed the role of Chair as Bruce Erdmann recused himself from deliberation and voting on the matters concerning Maggie Kozmin, Psy.D.)*

## ORAL INTERVIEW OF APPLICANTS FOR LICENSURE FINAL APPROVAL FOR LICENSURE

**MOTION:** Melissa Westendorf moved, seconded by Rebecca Anderson, to grant licensure to practice psychology to:

- Carla Davey, Ph.D.
- M. Christine Foskett, Psy.D.
- Allison Jahn, Ph.D.
- Shaneen Maskew, Ph.D.
- Michael Mihajlovic, Psy.D.
- Julia Myers, Psy.D.

Motion carried unanimously.

**MOTION:** Daniel Schroeder moved, seconded by Rebecca Anderson, to grant licensure to practice psychology to Maggie Kozmin, Psy.D. Motion carried. Recused: Bruce Erdmann.

*(Melissa Westendorf, Vice Chair, assumed the role of Chair as Bruce Erdmann recused himself from deliberation and voting on the matters concerning Maggie Kozmin, Psy.D.)*

## REVIEW OF APPLICATIONS FOR LICENSURE

**MOTION:** Daniel Schroeder moved, seconded by Melissa Westendorf, to act upon the review of applications conducted on February 6, 2013 as noted in the application files.

- Sharon Gray, Ed.D.
- Elizabeth Hansen, Psy.D.
- Julie Janecek, Ph.D.
- Sarah Kohlstedt, Ph.D.
- Sujatha Ramesh, Ph.D.
- Jamie Roberts, Psy.D.
- Shanda Wells, Psy.D.
- Erin Williams, Psy.D.

Motion carried unanimously.

**MOTION:** Daniel Schroeder moved, seconded by Rebecca Anderson, to act upon the review of applications conducted on February 6, 2013 as noted in the application file of Keyona Walker, Ph.D. Motion carried. Recused: Bruce Erdmann

*(Melissa Westendorf, Vice Chair, assumed the role of Chair as Bruce Erdmann recused himself from deliberation and voting on the matters concerning Keyona Walker, Ph.D.)*

## DIVISION OF LEGAL SERVICES AND COMPLIANCE

### Case Closings

#### 12 PSY 035

**MOTION:** Daniel Schroeder moved, seconded by Rebecca Anderson, to close case #12 PSY 035, for No Violation (NV). Motion carried unanimously. Recused: Bruce Erdmann

*(Melissa Westendorf, Vice Chair, assumed the role of Chair as Bruce Erdmann recused himself from deliberation and voting on the matters concerning 12 PSY 035.)*

## MONITORING MATTERS

**MOTION:** Melissa Westendorf moved, seconded by Daniel Schroeder, to accept, as amended, the document describing the Roles and Authorities Delegated to the Monitoring Liaison. Motion carried unanimously.

## ADJOURNMENT

**MOTION:** Melissa Westendorf moved, seconded by Rebecca Anderson, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 2:27 p.m.

**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:  <b>Dan Williams</b>		2) Date When Request Submitted: <b>3/13/13</b> Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections:  <b>WI PSYCHOLOGY EXAMINING BOARD</b>			
4) Meeting Date:  <b>3/25/13</b>	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  <b>Position Statements – discussion and consideration</b>	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing?  <input type="checkbox"/> Yes by <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:  N/A	
10) Describe the issue and action that should be addressed:  <b>In 2013 the Board will review the Position Statements currently on the DSPS website (Psychology page) to determine whether they should remain, be revised, or pulled entirely. These statements were transferred over from the old website in November-2012.</b>  <b>This month the Board will look items listed within the category titled 'CONFIDENTIALITY/LIABILITY'.</b>			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)    Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Executive Assistant prior to the start of a meeting.			

1. **CONFIDENTIALITY/LIABILITY**

1) **TARASOFF? IS WISCONSIN A TARASOFF STATE? WHAT DOES THIS MEAN?**

Yes, the state of Wisconsin follows the result in *Tarasoff v. Regents of the University of California*, 17 Cal. 3d 425 (Cal. 1976), a California Supreme Court decision which held that mental health professionals' have a duty to exercise reasonable care in the treatment of their patients by warning others of threats of harm by the patient. See *Schuster v. Altenberg*, 144 Wis. 2d 223 (1988). In *Schuster*, the Wisconsin Supreme Court held that the duty to warn extends to whatever other steps are reasonably necessary under the circumstances, including contacting the police, recommending or requiring hospitalization, or notifying a family member or friend who can help ensure safety. The case law in Wisconsin rejects the idea that the victim must be foreseeable; a psychotherapist has a duty to warn even if the actual victim was not foreseeable. Also, Wisconsin does not create a distinction between a generalized statement of dangerous intent and a particularized statement specifying the patient's intended victims.

The ruling in *Schuster* was supported by later Wisconsin decisions in *Steinberg v. Jensen*, 194 Wis. 2d 439 (1995), and *Wisconsin v. Agacki*, 226 Wis. 2d 349 (1999). These decisions held that there is no privilege between psychotherapists and patients regarding communications relevant to the discovery of the physical, mental or emotional condition of the patient in a proceeding in which that condition is an element of the patient's claim or defense. Thus, the principle that the confidentiality of patient communications gives way in certain instances is embodied even in the rules of evidence in court proceedings.

2) **DOES THE WISCONSIN PSYCHOLOGY BOARD'S RULES OF PROFESSIONAL CONDUCT INCLUDE A TARASOFF EXCEPTION?**

Yes, Wis. Admin. Code, PSY 5.01(12) (c) provides an exception to the prohibition against the breaching patient confidentiality if such disclosure is necessary to prevent injury to the client or other person. Thus, psychologists may disclose confidential information without the consent of the patient in order to warn potential victims and/or to contact the police when a patient presents a serious risk of danger to himself or others. In deciding whether to disclose and to whom to disclose, a psychologist is required to exercise reasonable care to protect the victim from the danger presented.

3) **DOES THE AMERICAN PSYCHOLOGICAL ASSOCIATION (APA) ALLOW A PSYCHOLOGIST TO DISCLOSE CONFIDENTIAL PATIENT INFORMATION IN CERTAIN SITUATIONS?**

Yes, the APA Ethical Principles of Psychologists and Code of Conduct (2002) provides that psychologist may disclose confidential information without the consent of the individual when mandated by law or permitted by law for a valid purpose, such as to protect the client, the patient, a psychotherapist or other third parties from harm.

4) **WHAT SHOULD A PSYCHOLOGIST CONSIDER IN DETERMINING WHETHER TO REPORT CONFIDENTIAL INFORMATION PROVIDED BY A PATIENT THAT INVOLVES THREATS OF HARM?**

A psychologist should consider several factors in determining whether confidential patient communications involving threats of harm should be disclosed. These factors include the sincerity, capability, imminence and gravity of the threat. Psychotherapists may want to consider the following questions:

- Does this person have a genuine intent to inflict harm?
- Does the person have the ability and opportunity to carry out the threat?
- Is there some sense of immediacy to the threat?
- Is there a serious risk of harm?

Although it may be difficult to answer these questions definitively, they provide useful guidance to assess the risk presented by the patient. Ultimately, the psychologist should make an informed decision that reflects what a reasonable practitioner would do under similar circumstances.

- 5) **A CLIENT, IN APRIL, INFORMED A PSYCHOLOGIST THAT THE CLIENT INTENDS TO COMMIT SUICIDE BY CHRISTMAS. THE PSYCHOLOGIST HAS NOT SEEN THE CLIENT SINCE MAY OF THAT SAME YEAR. SHOULD THE PSYCHOLOGIST REPORT THE THREAT?**

Under Chapter 51 of the Wisconsin Statutes, an imminent risk of harm is defined to be based upon "recent acts or statements." If the patient made threats to take harmful action in the distant future, there is no imminent threat, and thus, no duty to warn or protect. However, if a threat by a certain date means that it could happen sooner, the psychologist has a duty to at least determine how soon the patient is considering. The psychologist must also consider whether the individual was still considered a patient at the time of the threat, or whether the patient/therapist relationship has been terminated. A psychologist who is not actively seeing an individual in therapy has no obligation to report the individual's threat of harm to self or others. It is generally advisable to close a case 90 days after the last face-to-face contact to establish that the patient is no longer considered to be in active treatment and, consequently, the psychologist has no further professional responsibility to that patient unless the patient returns to therapy. During those 90 days, it would be clinically wise and ethically responsible, though, to periodically monitor the patient's status, especially if a suicide threat was made shortly after ending therapy and the patient was unwilling to continue or return to treatment. However, it is important to note that the duty to warn/protect is different from the mandated reporting obligation of reporting suspected abuse or neglect of a child patient.

**6) IN WHAT MANNER, AND TO WHOM, SHOULD A PSYCHOLOGIST REPORT A THREAT OF HARM BY A PATIENT?**

The responsibility to report a patient threat of harm to self or others may be fulfilled in whatever manner is most appropriate including contacting the police, recommending or requiring hospitalization, or notifying a family member or friend who can help ensure safety. Depending on the seriousness of the threat and the imminent ability of the threat to be carried out (e.g. the patient has a gun, has threatened to shoot a potential victim, and knows where to find that victim), the psychologist should act in a manner that is consistent with the seriousness of the threat in deciding how, and to whom, to report the threat.

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3) Name of Board, Committee, Council, Sections:  <b>WI PSYCHOLOGY EXAMINING BOARD</b>			
4) Meeting Date:  <b>3/25/13</b>	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  <b>Executive Order 61 – discussion and consideration</b>	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing?  <input type="checkbox"/> Yes by <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:  N/A	
10) Describe the issue and action that should be addressed:  <b>The following is the Motion from the last meeting as to EO61:</b> <ul style="list-style-type: none"> <li>• <b>MOTION: Rebecca Anderson moved, seconded by Daniel Schroeder, to authorize Daniel Schroeder to work with DSPS staff in regards to the directive of Executive Order 61. Motion carried unanimously.</b></li> </ul>			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)			
Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Executive Assistant prior to the start of a meeting.			

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3) Name of Board, Committee, Council, Sections:  <b>WI PSYCHOLOGY EXAMINING BOARD</b>			
4) Meeting Date:  <b>3/25/13</b>	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  <b>Legislative letter – discussion and consideration</b>	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing?  <input type="checkbox"/> Yes by <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:  N/A	
10) Describe the issue and action that should be addressed:  Same as title			
11) Authorization			
Signature of person making this request			Date
Supervisor (if required)			Date
Executive Director signature (indicates approval to add post agenda deadline item to agenda)    Date			
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# WISCONSIN LEGISLATURE

P. O. Box 7882 Madison, WI 53707-7882

DATE: February 18, 2013

TO: Chairperson Bruce Erdmann  
Wisconsin Psychology Examining Board

FROM: State Senator John Lehman  
State Representative Fred Kessler

RE: Proposed Legislation

We are writing today to directly seek the input of the Wisconsin Psychology Examining Board on legislation intended to empower mental health professionals to further protect those receiving care and the public from firearms tragedies. The attached proposed draft legislation is intended to give professionals the option, in cases where a person in their care is considered to pose a threat to themselves or others, to also report that threat to the Department of Justice.

DOJ issues and regulates concealed carry permits, and under this proposal would be required to revoke an existing permit held if a threat is reported – and to maintain a record of any reported threat for purposes of denying a future application.

Our intention with this proposal is to cast a narrow net and avoid unnecessary stigmatization. The intent of this bill is simply to add the option of reporting, for purposes of limiting their ability to carry a concealed weapon, a person whom a mental health professional considers enough of a threat to themselves or others to warrant a report under current practices.

This draft is being circulated to our fellow legislators for review and consideration, and would not be introduced for at least two weeks. We are writing to seek any input you may have on the legislation as drafted. We welcome any suggestions you may have for modifications or additions that maintain the intent of the bill to empower professionals to make these additional reports while respecting professional discretion, protecting professional credential-holders' integrity and record security and guarding against liability while providing reasonable opportunity for challenge.

We believe options that increase opportunities for law enforcement to stop potential firearms violence by a person considered to be a threat to themselves or others need to be explored. We very much welcome your input on the attached proposal and any recommendations you may have that maintain its intent.

Thank you for your time and consideration, and please feel free to contact us at the phone numbers or e-mails listed below. Best wishes.

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**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1     **AN ACT to amend** 175.60 (5) (a) 1., 175.60 (9) (b) 2., 175.60 (14) (a), 175.60 (14)  
2           (am) and 175.60 (14m) (title); and **to create** 51.30 (4) (b) 29., 175.60 (3) (h),  
3           175.60 (11) (am), 175.60 (12) (bm), 175.60 (14) (ag), 175.60 (14n), 448.117,  
4           455.085 and 457.29 of the statutes; **relating to:** restrictions on applicants for  
5           a license to carry a concealed weapon based on threat disclosures by mental  
6           health professionals, and threat disclosures by mental health professionals to  
7           the Department of Justice.

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***Analysis by the Legislative Reference Bureau***

Under current law, the Department of Justice (DOJ) must issue a license to carry a concealed weapon to a qualified applicant and may not issue a license to an applicant who is not qualified. An applicant is not qualified if he or she is under 21 years of age, is prohibited from possessing a firearm, has not completed specified firearm training, or is not a Wisconsin resident. Under this bill, an applicant is not qualified if a licensed psychiatrist, a licensed psychologist, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional counselor has, within the three years preceding the application, disclosed to DOJ a threat of harm by the applicant. If the psychiatrist, psychologist, social worker, therapist, or counselor discloses such a threat about a current licensee, DOJ must revoke the license. This bill also creates a procedure to appeal the decision to deny or revoke a license because of the disclosure.

This bill provides that a licensed psychiatrist, a licensed psychologist, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional counselor who has a duty to warn others about a threat by a patient or client may also disclose the threat to DOJ so that the patient or client will be ineligible for a license to carry a concealed weapon. The bill provides that a psychiatrist, psychologist, clinical social worker, marriage and family therapist, or professional counselor who makes such a disclosure is not liable for damages in any civil action for disclosing that threat.

Under current law, mental health treatment records are confidential but may be released without the consent of the subject of the record in certain circumstances. This bill adds to the circumstances in which a record may be released without consent a release to a law enforcement officer or DOJ for the purpose of disclosing a threat of harm.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 51.30 (4) (b) 29. of the statutes is created to read:

2           51.30 (4) (b) 29. To a law enforcement officer or the department of justice, for  
3 the purpose of disclosing a threat of harm under s. 448.117, 455.085, or 457.29.

4           **SECTION 2.** 175.60 (3) (h) of the statutes is created to read:

5           175.60 (3) (h) A person has disclosed to the department under s. 448.117,  
6 455.085, or 457.29 a threat of harm made by the individual and the disclosure was  
7 no earlier than 3 years before the individual submitted his or her application.

8           **SECTION 3.** 175.60 (5) (a) 1. of the statutes is amended to read:

9           175.60 (5) (a) 1. A statement that the applicant is ineligible for a license if sub.  
10 (3) (a), (b), (c), (d), (e), (f), ~~or (g)~~, or (h) applies to the applicant.

11           **SECTION 4.** 175.60 (9) (b) 2. of the statutes is amended to read:

12           175.60 (9) (b) 2. Deny the application, but only if sub. (3) (a), (b), (c), (d), (e), (f),  
13 ~~or (g)~~, or (h) applies to the applicant. If the department denies the application, the

1 department shall inform the applicant in writing, stating the reason and factual  
2 basis for the denial.

3 **SECTION 5.** 175.60 (11) (am) of the statutes is created to read:

4 175.60 (11) (am) Upon receiving a disclosure under s. 448.117, 455.085, or  
5 457.29, the department shall immediately determine if the individual who is the  
6 subject of the disclosure is a licensee, using the list maintained under sub. (12) (a).

7 **SECTION 6.** 175.60 (12) (bm) of the statutes is created to read:

8 175.60 (12) (bm) The department shall maintain any disclosure it receives  
9 under s. 448.117, 455.085, or 457.29 in the form and for the period the department  
10 determines is necessary to ensure that any application for a license under this  
11 section is denied if the applicant is prohibited under sub. (3) (h) from being issued  
12 a license.

13 **SECTION 7.** 175.60 (14) (a) of the statutes is amended to read:

14 175.60 (14) (a) The department shall revoke a license issued under this section  
15 if the department determines that sub. (3) (b), (c), (d), (e), (f), ~~or~~ (g), or (h) applies to  
16 the licensee.

17 **SECTION 8.** 175.60 (14) (ag) of the statutes is created to read:

18 175.60 (14) (ag) If the department revokes a license under par. (a) because the  
19 department determines that sub. (3) (h) applies to the individual, the department  
20 may not reinstate the license at the expiration of the period under sub. (3) (h) even  
21 if the license would not have expired under sub. (15) (a) had it not been revoked, but  
22 the individual may apply for a new license.

23 **SECTION 9.** 175.60 (14) (am) of the statutes is amended to read:

24 175.60 (14) (am) 1. The department shall suspend a license issued under this  
25 section if a court has prohibited the licensee from possessing a dangerous weapon.

1 under s. 969.02 (3) (c) or 969.03 (1) (c). If the individual whose license was suspended  
2 is no longer subject to the prohibition under s. 969.02 (3) (c) or 969.03 (1) (c),  
3 whichever is applicable, sub. (3) (b), (c), (d), (e), (f), ~~or (g)~~, or (h) does not apply to the  
4 individual, and the suspended license would not have expired under sub. (15) (a) had  
5 it not been suspended, the department shall restore the license within 5 business  
6 days of notification that the licensee is no longer subject to the prohibition.

7 **SECTION 10.** 175.60 (14m) (title) of the statutes is amended to read:

8 175.60 (14m) (title) APPEALS TO THE CIRCUIT COURT OVER DEPARTMENT ACTION.

9 **SECTION 11.** 175.60 (14n) of the statutes is created to read:

10 175.60 (14n) APPEALS TO THE CIRCUIT COURT OVER MENTAL HEALTH PROFESSIONAL  
11 ACTION. (ag) In this subsection, "mental health professional" means a person who is  
12 authorized under s. 448.117, 455.085, or 457.29 to disclose threats to the department.

13 (ar) An individual aggrieved by any action by a mental health professional that  
14 resulted in a license denial under sub. (9) (b) 2. or a license revocation under sub. (14)  
15 (a) may appeal directly to the circuit court of the county in which the individual  
16 resides.

17 (b) To begin an appeal under this subsection, the aggrieved individual shall file  
18 a petition for review with the clerk of the applicable circuit court within 30 days of  
19 receiving notice of denial of an application for a license or of revocation of a license.  
20 The petition shall state the substance of the mental health professional's action from  
21 which the individual is appealing and the grounds upon which the individual  
22 believes the mental health professional's action to be improper. The petition may  
23 include a copy of any records or documents that are relevant to the grounds upon  
24 which the individual believes the mental health professional's action to be improper.

1 (c) A copy of the petition shall be served upon the mental health professional  
2 and on the department either personally or by registered or certified mail within 5  
3 days after the individual files his or her petition under par. (b). The mental health  
4 professional and the department may file an answer, including a brief statement of  
5 any actions taken, any relevant documents, and any relevant records, within 15 days  
6 after being served with the petition.

7 (d) The court shall review the petition, the answer, and any records or  
8 documents submitted with the petition or the answer. The review under this  
9 paragraph shall be conducted by the court without a jury but the court may schedule  
10 a hearing and take testimony.

11 (e) The court shall reverse the department's action if the court finds that the  
12 mental health professional's actions were improper.

13 (f) The court's decision shall provide whatever relief is appropriate regardless  
14 of the original form of the petition.

15 **SECTION 12.** 448.117 of the statutes is created to read:

16 **448.117 Disclosure of threats.** (1) In this section, "psychiatrist" means a  
17 physician who specializes in psychiatry.

18 (2) A psychiatrist who has a duty to warn others about a threat of harm by a  
19 patient, whether arising under the common law, a statute, or a rule of professional  
20 conduct, may also, without the consent of the patient, disclose the threat to the  
21 department of justice so that the patient will be ineligible for a license as provided  
22 in s. 175.60 (3) (h). A psychiatrist is not liable for damages in any civil action for  
23 disclosing a threat under this subsection.

24 **SECTION 13.** 455.085 of the statutes is created to read:



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