CORA 2018 Minutes

CORA
Meeting Minutes
April 20, 2018
1:30PM – 3:10PM

Members Present: Barry Katz, PhD (CORA Chairperson), Jim Wulach, PhD, JD, Ray Hanbury, PhD, Keira Boertzel-Smith, JD (NJPA Executive Director), Dennis Finger, EdD (Liaison to Board of Psychological Examiners), Virginia Waters, PhD (COLA Representative), Morgan Murray, PhD (NJPA President Elect, and CODI Representative), Raymond Hanbury, PhD (COLA Representative)

Members Absent: Dina Goldstein Silverman, PhD (ECP Representative), Daniel Watter, EdD, William Frankenstein, PhD (Forensic)

Announcements

Dr. Katz informed the meeting that Dr. Tomasini was not able to continue as Co-Chair of CORA and that he would continue to serve as Chair.

Dr. Finger announced that he is stepping down as the liaison to the Board of Psychological Examiners. He is able to continue in this position until December 2018. He is announcing this at this time, so we can find a replacement and he will have time to provide training for that person. He recommended that an interested person should consider at least a two year commitment to the role of Board liaison.

Discussion Topics

1. Discussion of a bill that is likely to pass 1181, that has impact on our regulation regarding duty to warn. With this bill reporting to police is not optional when a patient makes a threat, in fact it requires that one reports to the chief of police, or superintendent of the state police.
   a. Suggestion is to reduce the scope of the impact from this bill, so that the requirement is only triggered after a violent threat includes mention of a gun.

2. Discussion of NJPA becoming a recognized provider of CE credits, independent of APA. BoPE has said no to this. CORA members reviewed list of 16 states that were able to provide CE credits independent of APA. Dr. Wulach offered an idea which related to CE credit for supervision. He suggested that NJPA could be approved by APA to offer a course (multiple workshop model) in clinical supervision.
   a. CORA members suggested the first step was to write a letter to the BoPE to inform them that there are 16 states that are recognized to provide CE’s independently of APA. It was suggested that this could be included in the larger document regarding other regulatory changes.
b. Dr. Wulach will write a summary of his idea for CORA members to review, with the plan to then present to CoCEA.

3. Discussion of Licensure
   a. Reviewed documentation from APA promoting efforts within states to change the regulations and laws around the requirement for post-doctoral supervision in order to obtain a license. These documents identified states that no longer required the post-doc hours and outlined a process for successfully making this change within states. APA offers a $1000.00 award to states associations that can show significant progress toward this goal in their state.
   b. CORA members noted the need for a concerted effort to make this change. It was suggested that ECP’s could take the lead within our association to organize our efforts to make this change.

4. Dr. Wulach presented a document regarding regulatory changes for discussion (see appendix).
   a. Most of the discussion focused on item 3 from the document about dual relationships in custody evaluations. Pros and cons were identified.
   b. CORA members decided there needs to be more development of the recommendation before presenting to the BoPE.
   c. It was suggested that we get an opinion from Forensic Committee and Ethics Committee.

5. Discussed an issue presented by member Joan Kakascik, Ed.D in which NJ licensed psychologists that hold an EdD degree were being prohibited for conducting guardianship evaluations due to an error in the language on Guardian Certification document CN 12012 Form D (02/2017) which only identifies PhD or PsyD as permitted to conduct the assessments.
   a. CORA recommends that addressing this issue would include:
      i. NJPA writing a letter to the BoPE to let them know there is this violation of the licensing law which is having an adverse effect on our members.
      ii. Informing the agency that developed the form of the error.
      iii. Writing a letter of support to Dr. Kakascik.
   b. If Executive Board agrees with these recommendations, it can decide on how best to implement them.

Respectfully submitted by Morgan Murray, PhD

Appendix

Comments on State Board of Psychological Examiners Regulations

By James S. Wulach, Ph.D. J.D.
1. **NJAC 13:42-8.1 PREPARATION AND MAINTENANCE OF CLIENT RECORDS**

   There is nothing in the regulations on record keeping that recognizes or integrates the HIPAA distinction between PHI and Psychotherapy Notes. It is recommended that the NJ regulations more explicitly integrate or synchronize with HIPAA criteria, as more and more psychologists are becoming covered entities.

   In particular, psychologists should be permitted to keep two sets of notes, PHI and Psychotherapy, and they should be given explicit legal protection, as in HIPAA about limiting the distribution of psychotherapy notes, at least so insurance companies who may be exempt from state law from ERISA, from requiring disclosure.

   The regulations should clarify that much of the required content in client records may be kept in in psychotherapy notes, consistent with HIPAA. The regulations regarding confidentiality, authorization and release of psychotherapy notes should be clarified as well.

2. **NJAC 13:42-8.6 MINORS**

   The current regulations require authorization for records release from both custodian and minor, when the minor is over 14 years of age. Whether this would permit or prevent psychologists from talking with or sharing any information with parents without such a release from the minor is not explicit, although presumably a signed authorization would be necessary before communication is permitted, regardless of other custodian rights to their minor children’s information.

3. **NJAC 13:42-12.3 DUAL RELATIONSHIPS [in Custody Evaluations]**

   The regulations do not specifically mention that time-sharing recommendations are equally as prohibited as legal custody recommendations. While legally they may be considered as a type of custody recommendation, many psychologists mistakenly make time-sharing recommendations in treatment reports or letters and don’t realize that they are violating the rules. Therefore, to reduce complaints generated in custody disputes, it is suggested that time-sharing recommendations should be explicitly prohibited by therapists.

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**Committee on Regulatory Affairs Meeting Minutes**

*June 22, 2018*

**Members Present** - Barry Katz, PhD (Chair); Morgan Murray, PhD - (President-Elect- Board Representative/CODI); Dina Goldstein Silverman, PhD (ECP); Jim Wulach, PhD, JD; Dennis Finger, EdD (CoCEA and BoPE Liaison); Ray Hanbury, PhD (COLA); Keira Boertzel-Smith (Executive Director)

**Members Absent** - Virginia Waters, PhD (COLA); William Frankenstein, PhD (Forensic)
I. Minutes
CORA April Minutes were approved prior to this meeting. Boertzel-Smith will take the June 22, 2018 CORA minutes.

II. Duty to Warn Law
On June 13, 2018, the New Jersey Duty to Warn Law for all mental health professionals was amended, based on bill A1181. The official text of the amended law is not available yet. COLA has been monitoring this bill and has proposed amendments to the bill sponsors, most recently in April 2018, which were not adopted.

CORA discussed the definition of imminent threat.

CORA will work towards drafting proposed regulatory language based on the new Duty to Warn amendments and suggests that NJPA collaborate with other stakeholders including mental health professional, medical professionals, law enforcement, hospital associations, AMA, and APA, to focus on the law’s intent of safety of the public in the most efficient and effective way. Boertzel-Smith will reach out to NJPA member Dr. Gianni Pirelli to assist with drafting proposed language. The focus of the language should be mental health and not firearms. Dr. Hanbury will reach out to law enforcement to determine their proposed internal policy related to this new law amendment. Once finalized by CORA, the proposal will be presented to the Board.

The need for continued communication with NJPA members about this amended law, and NJPA’s past and current efforts, was stressed. Dr. Wulach is working with NJPA’s DPA, Dr. Judith Glassgold, on FAQs related to the law.

III. Maiden Names
In December 2016, NJPA sent to the Division of Consumer Affairs correspondence to address the Division’s mandatory policy on the use of legal names on the New Jersey psychologist license and other professional identification materials. This policy is of great concern to the members of NJPA, as it affects a large percentage of its membership, namely female members. NJPA’s Government Affairs Agent indicated that the Division has been unable to produce a written policy and the next step is to draft legislation. This matter and next steps will be managed by COLA and presented to leadership/board for approval.

IV. NJPA Member Ask – Certification of Psychologist – Guardian
The Board is asking CORA to further research the member notification that NJ licensed psychologists holding EdD degrees are omitted from the Guardian Certification document CN 12012, Certification of Physician or Psychologist (02/2017) due to an omission in the language on the form. NJPA’s Government Affairs Agent indicated that this matter should be presented to the NJ Department of Human Services. The message will be also sent to the BoPE. CORA agreed that the language of the message should be:

*The New Jersey Psychological Association has been made aware that NJ licensed psychologists holding EdD degrees are omitted from the Guardian Certification document CN 12012, Certification of Physician or Psychologist (02/2017) due to an omission in the language on the form. This form only identifies PhD*
or PsyD check boxes for licensed psychologists. NJSA 45:14B-2 New Jersey Practicing Psychology Licensing Act defines "Licensed practicing psychologist" as an individual to whom a license has been issued pursuant to the provisions of this act, which license is in force and not suspended or revoked as of the particular time in question. Psychologists with EdD degrees are licensed psychologists within the state of New Jersey. The simple solution is to add a check box for EdD on CN 12012, Certification of Physician or Psychologist (02/2017).

Boertzel-Smith will forward the message to the Board.

V. Regulations Update
The proposed telehealth regulations are being worked on by state attorneys and the BoPE. NJPA submitted comments to the BoPE in September 2017, and then resent them again in June 2018, regarding the proposed regulations. Next, the final proposed regulations language will be published in the NJ Register for public comment. Dr. Finger indicated that there is no set timeline for the release of the proposed regulations. CORA suggests that NJPA submit comments to the proposed regulations when released.

Dr. Finger will not be attending the July BoPE meeting. Dr. Katz will take his place at this meeting. It was mentioned that the BoPE will be willing to receive any NJPA regulations amendment suggestions at any time. CORA will need to determine when it might be ready to work on that regulations project.

VI. Licensure
CORA will recommend to the NJPA Licensure Task Force that the positive impact on rising psychologists’ ability to work sooner after licensure and access to care for NJ residents outweighs any potential risk to opening up the NJ licensing law. It was suggested that NJPA create a position paper and share this with the BoPE to ensure that they at least take a neutral position on our potential legislative efforts. Dr. Silverman will share CORA suggestions with the ECPs who meet on June 24, 2018. The licensure model for psychiatrists was discussed. Available APA resources was discussed.

VII. Meeting adjourned

Committee on Regulatory Affairs Meeting Minutes
November 7, 2018

Members Present - Barry Katz, PhD (Chair); Morgan Murray, PhD - (President-Elect- Board Representative/CODI); Dina Goldstein Silverman, PhD (ECP); Jim Wulach, PhD, JD; Dennis Finger, EdD (CoCEA and BoPE Liaison); Ray Hanbury, PhD (COLA); Virginia Waters, PhD (COLA),

Keira Boertzel-Smith (Executive Director)

Members Absent - William Frankenstein, PhD (Forensic)
VIII. **Minutes**
CORA June 2018 minutes were approved by e-vote prior to this meeting. It was agreed that the taking of minutes will be rotated among the CORA members.

IX. **Duty to Warn Law**
Feedback on this law went to COLA and the NJPA government affairs agent but the legislature passed the bill as it was written. Now COLA has drafted comments to the Attorney General (AG) based on members’ comments and the attorney general is considering NJPA’s comments. A hospital organization also had issues with it. NJPA will keep members up-to-date.

X. **Maiden Names**
NJPA sent letter to the DCA regarding psychologist concerns with the legal name v. maiden name issue. The issue will go to the legislature and our government agent (GAA) will update NJPA.

XI. **Regulations Update**
A regulatory analyst updated the BoPE on the progress of telehealth regulations. Language was changed to include the word “psychological” or a form of that word and language such as “mental health services” in the regulations not just using a word like “medical.” The regulations were approved by the BoPE. The regulations now go to administrative and legal review with no end date given.

XII. **Licensure**
The ECP is pursuing this change through the legislature. The change would affect the accruing of required hours for licensure to allow for full hours to be completed on a predoctoral level. COLA supplied the ECP with information to help them. COLA and the NJPA GAA support the ECP with this initiative. Our GAA seemed optimistic about passage. The ECP needed talking points and will testify if needed. The initiative is consistent with the APA model of change. This change will increase access to care and will not lessen what's required for licensure.

XIII. **HIPAA Update**
It is important to review HIPAA requirements for psychologists. There was a discussion of what is a covered entity under HIPAA and it was suggested that psychologists err on the side of caution and follow HIPAA guidelines. Once it is decided that the entity must be HIPAA-compliant that designation always holds. HIPAA is federal law and it allows the state AG to bring charges against the psychologist. NJPA will do an update on HIPAA for our Friday update. It is expected that APA will come out with an educational package about HIPAA in 2019 and the latter could be a continuing education (CE) program in 2019. It was suggested talking with the forensic committee about what is involved with being a covered entity under HIPAA.
XIV. BoPE Update
Some psychologists were attempting to have their CE requirements waived due to several reasons including age, seniority, lack of awareness, etc. These waiver requests were denied. The issue of telemedicine regulations was discussed earlier. The BoPE, at its November 2018 public session, discussed the issue of three-year temporary permits. The current regulations allow the BoPE to use discretionary permit extensions on a case by case basis. In past practice, the BoPE also has extended three-year permits. However, the BoPE acknowledged that the current statute limits the three-year permit to the three years only. The BoPE will discuss this issue. CORA members were concerned that the three-year permit extensions would not be allowed. ECP members could be adversely affected by disallowing the extensions. ECP members are already dealing with a tough job market, getting supervisory hours, many have young children and have other circumstances needing discretionary extensions. CORA will get input from other NJPA committees and write a letter to the BoPE supporting the maintenance of discretionary permit extensions. A question arose about whether ACCME CE programs are considered AMA approved and thus acceptable for our psychologist CE requirements. There will be will follow-up on this question.

XV. Future Meetings
CORA will schedule quarterly meetings in 2019 and will use the “doodle” for scheduling.
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