



## West Virginia Psychological Association

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### **Response to the “Legislative Fact Sheet” produced by Sheila E. Kelly, MA**

We have reviewed the “Legislative Fact Sheet” offered by Ms. Kelly on December 1<sup>st</sup>, which appears to have been offered in support of the licensing law proposed by the WV Board of Examiners of Psychologists.

The points she offers are brief and authoritative-sounding but for the most part lacking in both truth and relevance. We offer the following analysis, with examination of the statistics and some added historical perspective.

Let’s start with the stated “bottom line”:

*“In short, the proposal being advanced by the WV Psychological Association Executive Committee is a solution that has no identified problem.”*

This is a form of the old "if it ain't broke, don't fix it" argument. Actually, it has been broken for a long time. The problem is that the original psychology licensing law could not have envisioned the very significant advances and demands in professional psychology when it was enacted some 35 years ago. At that time, there were literally no psychologists in private practice; most worked under psychiatry. No one ever envisioned masters practitioners working independently. There was no insurance coverage. There was no "parity"; we had to yield to psychiatry.

Today, the field has become increasingly complex, the work has changed, and the Act is outmoded.

- No master trained licensed psychologist can be reimbursed by any federal payer source, and there is no indication this will ever change
- We have WVBOEP who are primarily masters-trained licensed psychologists examining doctoral candidates about issues and topics they never saw or experienced in their own limited training.
- We have a national reputation as a masters-dominated state mental health system discouraging doctoral graduates from seeking employment here.
- We have a situation in which, by virtue of training limitations, consumers do not have access to best practices and the standard of care that is enjoyed by patients receiving behavioral health care in every other state of the country.

As a result, the WVPA Board of Directors voted unanimously in July to develop and submit an alternate licensure proposal, since we concluded that the proposal offered by the WVBOE was inimical to the best interests of the citizens of West Virginia, and dampened a standard of excellence and best practice in WV psychologists.

Our primary objective has always been to bring WV psychology into compliance with the enduring doctoral training standard of every other state in the country, and encouraging access to state-of-the-art care for our citizens. As noted, the federal government has long ago recognized the doctoral standard, and our aging population, our veterans and patients at federal facilities are required access to doctoral-trained psychologists.

In addition, over 20% (383,035 West Virginians, according to the Kaiser Foundation (2011) (<http://www.statehealthfacts.org/profileind.jsp?cat=6&sub=74&rgn=50&cmprgn=1>)) of the citizens of WV are enrolled in Medicare. Furthermore, the state's Veterans population, and all those seeking primary care at Rural Health and Community Health Clinics, cannot be treated by masters trained psychologists. Unless they pay from their own pockets, all these West Virginians will not have access to mental/behavioral health services because the federal payer sources define a psychologist as professional trained at the doctoral level.

Professional organizations such as the American Psychological Association (APA), Association of State and Provincial Psychology Boards (ASPPB), and the National Register of Health Service Providers in Psychology unambiguously endorse the doctorate as the level of training for independent practice. Arguments made by opponents of the revision in WV have claimed that this is not so, but all one has to do is look at these organizations' websites for confirmation, in their own written documents

And despite all this, the WVPA proposal affirms our masters colleagues and retains the title of "psychologist" for those currently licensed, then adds not one but two levels of masters-trained providers. No one loses, everybody wins.

Now back to the beginning:

*"The Executive Committee of the West Virginia Psychological Association is proposing to create multi-level licensure for psychologists, effectively restricting licensure to doctoral level candidates. This is a very bad idea, and here is why..."*

This heading is inflammatory, but absolutely untrue. WVPA's proposal does not restrict licensure only to doctoral psychologists; it offers licensure to providers with both doctoral and masters training, with titles and scope of practice appropriate to training.

Under the current proposal, all current licensees will retain their title forever regardless of degree. There will be no change in the rights and privileges current masters trained licensed psychologists enjoy. The title "psychologist" will still be recognized and reimbursed as it is today.

In addition, the proposal explicitly and intentionally provides for licensure for future masters level professionals, with scope of practice based on training and experience. Better still, Licensed Psychological Practitioners (LPP) will achieve licensure more quickly, and Masters level providers who cannot pass the EPPP (national licensing exam) at the level required for independent licensure can continue working in the field under supervision as a Certified Psychological Associate (CPA), instead of having to stop working in psychology altogether.

Thus, the proposed changes address personnel and access problems by increasing the number of persons eligible to provide behavioral/mental health services, and by decreasing post-degree supervision requirements, which will facilitate access to care.

1. *"West Virginia has 493 licensed psychologists living and working within the state."*

Actually, using current data there are 604 total active licenses, of which 498 report in-state addresses. However, this includes 50 people who have a school psychologist license only, and who do not provide clinical services to the public. This leaves 448 licensed psychologists with WV addresses.

2. *"289 or 59% of those psychologists are licensed at the Master's degree level."*

The current data indicate that there are 203 doctoral and 245 masters licensed clinicians with in-state addresses, so 55% are masters licensed at present.

3. *"Of the 204 doctoral level psychologists licensed and living within West Virginia, 55, or 27%, work within a University or other academic setting. Of the 204, 132 (65%) live and work within four metropolitan areas: Kanawha/Putnam (32); Cabell (21); Monongalia/Marion (60) and Wheeling (19)."*

From the current data, 129 doctoral and 120 masters licensed clinicians have addresses in those four metro areas. When we add those in the other large area, Parkersburg, the total is 137 doctors and 137 Masters. It's dead even. Apparently many people choose to be in these areas, regardless of degree – and provide services to patients/clients in these and other areas.

Those who work within academic settings have mandates for clinical service, and outreach services. Many provide clinical services far away (in rural areas) from their departments and mailing addresses, and provide services to clients/patients from all over the state, who come to the universities and their clinics for specialized services. They also supervise clinical students and supervised psychologists who work in a variety of settings, including rural areas.

The WVBOE's figures also imply that 73% work outside of academic settings, and receive mail within metropolitan areas, but travel to rural areas to see patients. The basis for that opinion concerns only where the various licensees receive their mail, and does not represent the geographic scope of their professional activities.

4. *"A Board of Examiners study conducted in 2010 reveals that eight counties in West Virginia have no psychologists living and practicing within the county (all are rural). Eighteen counties have only Master's level practitioners."*

As we know, the WVBOE data are outdated, and they include the non-clinical school psychologists, which makes it appear that there are more providers than there are. The current data indicate that we do have a shortage in that there are no clinical psychologists at all in 14 counties. In 15 other counties, there are only one or two, either doctoral or masters.

But many of these counties also have no urologist, cardiologist, pulmonologist, etc. and as in every other rural area in the nation the citizens travel to the closest area offering qualified specialty care. This is

true, for instance, in Hardy county, where citizens typically travel *out of state* for medical care. Except for psychology, that is, since there are two psychologists practicing in that county; both are doctoral, and citizens come from neighboring counties to see them.

*5. "Only 28% of the 493 licensed psychologists living in West Virginia are represented by the West Virginia Psychological Association, meaning that the position presented by the Executive Committee is not representative of the majority of psychologists living and practicing in the state."*

This statement implies that none of the non-WVPA member WV psychologists would consider the WVPA proposal to represent their position, but there are no data to support this interpretation. Many doctoral psychologists do not join WVPA because of its past inconsistency with their support of the national standard that psychology is a doctoral level profession. The only accurate thing to say about these data is that there are psychologists in the state who are not members of WVPA, which is typical of every profession, in every state.

*6. "The population of Medicaid members and uninsured individuals within West Virginia is heavily dependent on Master's level practitioners for services. This population is typically low income and living in rural or low income urban settings. Data from July 1, 2010 to June 30, 2011 reveals that 206 Master's level psychologists (60% of the total) provided at least one service to a Medicaid member while only 137 doctoral level psychologists did so."*

These data, from the WVBOE and Sheila's fact sheet, do not mention the percentage of total doctoral clinicians seeing Medicaid patients. According to these numbers, 68% of doctoral providers treated Medicaid patients. And regarding doctoral psychologists employed in academic settings, these clinics provide a good deal of service to the Medicaid population, often in high proportion to total patients seen. By the "fact sheet's" own logic, doctoral psychologists make a strong contribution to treating Medicaid patients.

The "fact sheet" seems to imply that the proposed change to the law would somehow eliminate access to services from masters level providers and/or from "psychologists" in general. Both implications are not supported. With the current proposal, all current Psychologists continue to be Psychologists. There will continue to be masters-level providers, and agencies that are going to provide services offered by "psychologists" will begin to hire more doctoral level providers. There is absolutely no empirical evidence to conclude that there will be a lack of necessary psychological service providers.

Of greater importance, a large part of the population needs to be treated by doctoral psychologists by Federal mandate. Over 20% of West Virginians rely on Medicare, which does not reimburse for Masters-level services other than providing psychological testing ordered by a doctoral provider. Likewise, Veterans Administration patients and those seeking primary care at Rural Health and Community Health Clinics cannot be treated by masters trained psychologists unless they pay from their own pockets, because the federal payer sources define a psychologist as a doctorally trained professional.

So we need to increase the numbers of doctoral providers by creating a law that is attractive to and not dismissive of them. And we need to increase the number of masters-level providers at their level of demonstrable competency, who will continue provide services in the community and at the behavioral health centers.

*7. "The Performance Evaluation and Research Division (PERD) of the Legislative Auditor recognized in the July 2006 review of the WV Board of Examiners of Psychologists that "Since West Virginia has a shortage of psychologists with the present licensing of psychologists, the creation of two licenses and a restricted scope of practice for masters level degrees could impact the provision of services in the long run".*

Using the PERD report's conclusion to support this position is similarly flawed, in the context of WVPA's proposal:

(a) Every rural state has a shortage of psychologists. We also have a shortage of other types of mental health providers, and medical providers in general.

(b) The WVPA proposal is intended to affect the provision of services in the long run by increasing the number of providers via the LPP and CPA, plus incentivizing doctoral clinicians to come to or remain in WV.

c) Our proposal does not restrict the scope of practice any more than current law does. LPPs will practice independently in any areas for which they demonstrate appropriate training; that is no different than the demonstrable competency standard now in place.

*8. "In states with multi-level licensure, payment rates are significantly lower for Master's Level practitioners than Doctoral, often as much as one third to perform the same service. This will have significant impact on the financial survival of community-based agencies such as the Comprehensive Behavioral Health Centers, who are often unable to recruit doctoral level providers, particularly in rural counties, and who rely heavily on Medicaid billing for survival."*

What states, specifically, have identified significant loss of reimbursement to masters providers? What figures support payments at only a third of the doctors? This question has been asked before, but an answer is never given.

The BHC's are not "unable" to recruit doctoral providers, they simply have not had the necessary incentives to do so and have not prioritized the hiring of doctoral level psychologists. If it is true that doctoral providers will be reimbursed at a higher rate, then BHC's will be incentivized to recruit doctoral level providers. In this economy, job openings will not go unfilled.

The WVPA proposal supports BHCs by providing a broader range and a greater number of service providers. And we have pledged our support in the process of enhancing reimbursement. We would be surprised to find that advocates for the WVBOE's limited proposal would not join us in this.

*9. "Addition of multi-level licensure will necessitate a Medicaid State Plan Amendment for the Bureau of Medical Services, a process that often consumes many months and creates significant and frequently non-related questions from the Centers for Medicaid and Medicare Services (CMS) regarding West Virginia payment methodologies."*

Yes, the paperwork will need to be done to include LPPs and CPAs as Medicaid providers, and such paperwork was necessary when the current reimbursement system was developed. Other states have made necessary changes with good success, and we all will be committed to get it done. Most important is that once the law is changed and the inflammatory rhetoric is longer of any political value,

then all of that energy can be turned towards the needed changes. Since the changeover does not occur until July 2015 (per the current legislative draft) we will certainly have time to accomplish this essential task.

*10. "The Kaiser Foundation has identified West Virginia as a state in need of more mental health professionals, estimating the rate of need to be approximately 24.9%, relative to the much lower rates of Virginia, Pennsylvania and Maryland averaging approximately 10%."*

We do need more mental health professionals. WVPA's proposal will increase opportunities for MA level providers to be licensed more quickly and for CPA's to continue working in the field, where currently they can't. Plus, we are setting the stage to make WV more attractive to doctoral providers, so they will be more interested in being here.

*11. "The number of individuals who have lost or experienced disciplinary action to their license due to complaints regarding ethical violations filed with the Board of Examiners is higher for doctoral level providers through 2009 than for Master's level (5 masters, 12 doctoral)."*

What do these numbers mean, other than sounding inflammatory? At first glance this statement seems like a thinly-veiled attempt to say that doctoral providers as a group are less ethical, yet no context is provided to support it. This is the same as saying that since commercial trucks have more accidents than cars they must be worse drivers. The more likely explanation is that the commercial drivers spend considerably more time driving and face substantially greater challenges than car drivers do. It would be naïve to conclude that truck drivers are, as a group, more reckless, from a simple summary figure.

Doctoral-prepared psychologists are often involved in complex and contentious cases. More patients die at large tertiary care medical centers than in small local hospitals, because when the small hospital's staff gets a patient in trouble they transfer the patient to the large medical center, where sometimes they die. That is because the patient was in grave difficulty to begin with, and not the fault of the large center. This is an issue that was not raised by the WVPA proposal, and appears not to have any justification in this case.

In fact, data from the WVBOE in the recent past suggests that substantially more MA level providers, compared to doctoral, had to have their scope of practice limited by the WVBOE at their licensing orals. It is clear from these data, which reflect the real issue of protection of the public (the purpose of licensure), that more masters than doctoral applicants have problems with self-identifying the limits and boundaries of their competence.

*"In short, the proposal being advanced by the WV Psychological Association Executive Committee is a solution that has no identified problem."*

This current licensure law, which fails to acknowledge the substantial growth of our field, has outlived its usefulness, especially as it lacks the flexibility to accommodate the evolving science and practice of psychology. A new law, which accounts for these changes, as well as attends to the unique needs of our state by insuring an increase of manpower with appropriately credentialed professionals, is in everyone's best interest.

In other words, "Everybody Wins".

December 6, 2011