

**Before the West Virginia Board of Examiners of Psychologists**

**W. Va. Board of Examiners of  
Psychologists,**

**Complainant,**

v.

**Case No.: 2023-11**

**Henry F. Lynn, III, Ed.D**

**Respondent.**

**Consent Agreement and Order**

Pursuant to W. Va. Code § 30-21-6, the West Virginia Board of Examiners of Psychologists (“Board”) opened an investigation concerning licensed psychologist Henry Lynn, Ed.D, D, and possible violation of applicable codes of conduct as set forth in W. Va. Code R. § 17-6-1 *et seq.* The parties have reached an agreement as to the appropriate disposition of this matter, with consideration to necessary safeguards for protection of the public and do hereby agree as follows:

**Findings and Conclusions**

1. The Board is a state entity created by W. Va. Code § 30-21-1 *et seq.*, and it is empowered to regulate the practice of psychology in West Virginia.
2. To carry out its regulatory duties, the Board has the authority to take disciplinary action against an individual’s psychology license if the individual has engaged in unprofessional or unethical behavior in violation of application statutes, rules, or codes of conduct. See W. Va. Code § 30-21-6; See W. Va. Code § 30-21-10; See W. Va. Code R. § 17-4-4.
3. A psychologist shall be responsible for his/her own professional decisions and professional actions. See W. Va. Code R. § 17-6-2.3.

4. A psychologist shall limit practice and supervision to the areas of competence in which proficiency has been gained through education, training, and experience. See W. Va. Code R. § 17-6-4.1.

5. A psychologist rendering a formal professional opinion about a person shall not do so without direct and substantial professional contact with or a formal assessment of that person. See W. Va. Code R. § 17-6-4.6.

6. Psychologists may provide opinions on the psychological characteristics of individuals only after they have conducted an examination of the individuals adequate to support their statements or conclusions. See W. Va. Code R. § 17-6-12.6.

7. The psychologist shall include in his/her report of the results of a formal assessment procedure, for which norms are available, any deficiencies of the assessment norms for the individual assessed and any relevant reservations or qualifications which affect the validity, reliability, or other interpretation of results See W. Va. Code R. § 17-6-12.3.

8. Respondent, at all times relevant to this investigation, is a licensed psychologist in the State of West Virginia, License No. 210024, and is subject to the jurisdiction and authority of the Board and applicable licensing requirements.

9. Respondent completed a video conference (“telehealth”) evaluation of a non-verbal 19-year-old client residing in Nebraska. This individual does not use sign language. This individual was seeking ICF/IID placement in West Virginia.

10. Respondent did not indicate in the evaluation report that the assessment had been conducted via telehealth, and thus it could not be accepted by West Virginia Bureau for Medical Services as a valid psychological evaluation.

11. Respondent did not have a license in Nebraska, nor did he obtain permission from Nebraska prior to evaluating the client.

12. This evaluation should have been conducted by a licensed psychologist or licensed school psychologist in Nebraska.

13. This evaluation should not have been conducted via telehealth given the client's physical limitations or impairments.

14. The Board investigated a written complaint it received from a licensed psychologist involved in reviewing the client's application for ICF/IID placement.

15. The Board alleges that its review of this matter shows that Respondent may have violated the above referenced codes of conduct.

16. Respondent avers and maintains that, at all times at issue herein, and at all times in his practice as a licensee before the Board, he has acted in good faith and followed applicable laws, regulations, codes of conduct, and has behaved reasonably and within the accepted standards of the profession.

17. The allegations set out above in the Findings and Conclusions, if proved consistent with the applicable burden of proof, would likely demonstrate that Respondent did not comply with applicable regulations or codes of conduct, concerning licensed psychologists in West Virginia, which is grounds for disciplinary action pursuant to W. Va. Code § 30-21-10(b)(4), and applicable Board rules and codes of conduct.

#### **Consent of Licensee**

The Respondent, by affixing her signature hereto, acknowledges the following:

1. Respondent has been given the opportunity to consult with legal counsel and he executes this negotiated Consent Agreement and Order voluntarily, freely, without compulsion or duress, and he is mindful that it has legal consequences.

2. No person or entity has made any promise or given any inducement whatsoever to encourage Respondent to make this settlement other than as set forth herein.

3. Respondent acknowledges that he is aware he may pursue this matter through appropriate administrative proceedings, and he is aware of his legal rights regarding this matter, but intelligently, knowingly, and voluntarily waives such rights, but he does not waive his rights regarding the interpretation, execution, or compliance with this Consent Agreement and Order.

4. Respondent expressly acknowledges that the entire agreement is contained in this Consent Agreement and Order and that no representations, promises, or inducements have been made by or to Respondent other than as they appear in this Consent Agreement and Order.

5. Respondent acknowledges that this Consent Agreement and Order is a public document available for inspection by the public in accordance with the provisions set forth in the West Virginia Freedom of Information Act (W. Va. Code § 29B-1 *et seq.*), and may be reported to other governmental agencies, professional boards or other organizations.

6. Respondent waives any defenses including, but not limited to, laches, statutes of limitation, and estoppel, that he may have otherwise claimed as a condition of this Consent Agreement and Order.

### **Order**

On the basis of the foregoing, the Board does hereby ORDER and DECREE that:

1. Beginning on the date of execution of this Consent Agreement and Order, Respondent's license shall be placed on probation for a period of one (1) year.
2. During this one (1) year probationary period, Respondent shall not:
  - a) conduct out-of-state psychological evaluations.
  - b) administer virtual/online intellectual tests, including all Weschler Tests and/or academic achievement tests, including WRAT-5; and
  - c) conduct virtual evaluations without prior written Board approval.

3. During this period of probation, and at his expense, Respondent shall practice under the supervision of a Board-approved licensed psychologist who shall meet with the Respondent once a month during the probationary period for at least one hour to address Respondent's adherence to provisions of this Consent Agreement and Order and to work with the Respondent concerning ethics and the above-described issues. The supervising psychologist shall submit quarterly reports to the Board concerning Respondent's performance and adherence to the provisions of this Consent Agreement and Order. The parties shall execute a supervisory agreement outlining the terms of the supervision prior to initiation of such supervision.

4. During this period of probation, and with approval of the supervising psychologist, Respondent shall limit virtual, remote, and/or telehealth assessment procedures to clinical interviews and observations, Mental Status Examinations, and rating scales via interview and/or publisher-approved web-based administration.

5. Respondent shall conduct all evaluations in compliance with HIPAA confidentiality requirements and receipt of informed consent from the client or legal representative.

6. During this period of probation, and at his expense, Respondent shall successfully complete six (6) hours of Board-approved continuing education, which shall incorporate the following topics:

- General Ethics and Codes of Conduct.
- Psychological Testing, Psychological Assessment, and Reporting

This continuing education may be taken in person or on-line. Respondent shall acquire prior board approval of each continuing education course, submit written verification to the Board of his enrollment in each course, and shall submit proof of having successfully completed each course.

Respondent acknowledges this continuing education is in addition to the continuing education hours that are needed in the normal course of renewing his license.

7. By the 5th day of the 12<sup>th</sup> month of the probation period, the supervising psychologist shall submit a final report to the Board, which shall include his/her opinion of whether or not Respondent has met the requirements of the Consent Agreement and Order and a recommendation concerning Respondent's ability to return independent practice. Said final report may also serve as the quarterly report required under Paragraph 3 above for the 12<sup>th</sup> month of the probation period.

8. During the 12<sup>th</sup> month of the probation period, Respondent shall appear before the Board in person or via video conferencing (at his discretion) to document and assure the Board he has met all requirements of the Consent Agreement and Order.

9. After meeting with the Board, Respondent's probationary period shall be terminated, provided he has complied with all the foregoing requirements of the Consent Agreement and Order, and subject to him meeting continuation education requirements that may be needed in the normal course of renewing his license.

10. Respondent shall, at all times, cooperate with the Board, and any of its agents or employees, in the monitoring or investigation of Respondent's compliance with the terms and conditions of this Consent Agreement and Order.

11. Respondent's failure to comply with the terms and conditions of this Consent Agreement and Order hereby imposed shall be deemed a violation of this Consent Agreement and Order, and should Respondent violate any of the terms of this Consent Agreement and Order, the Board may initiate proceedings to further discipline Respondent's license. Respondent shall have the right to contest any such allegations of violating the Consent Agreement and Order by way of

hearing. Any such proceedings shall be scheduled and conducted in accordance with the provisions of West Virginia Code § 30-1-8 and § 30-21-11, and W. Va. Code R. §17-5 *et seq.*

Entered this 9<sup>th</sup> of April 2024.

**W. Va. Board of Examiners of Psychologists**

Sandra S. Strachel PhD  
**Board President**

**Inspected and agreed to by:**

Henry F. Lynn, III, Ed.D  
**Henry F. Lynn, III, Ed.D**  
**Respondent**

4-8-2024  
**Date**

Yvonne H. ...  
**Legal Counsel or Witness**  
**For the Respondent**

4/4/24  
**Date**