

May 22, 2023

UPDATE ON GOVERNMENT AFFAIRS COMMITTEE SURVEY OF SDPA MEMBERS' EXPERIENCES WITH THE BOARD OF PSYCHOLOGY: ENFORCEMENT

This is one in a series of E-news articles describing the Government Affairs Committee's findings regarding SDPA members' experiences with and perceptions of the California Board of Psychology (BoP). After the results of this investigation are reported to SDPA members in E-news articles, the GAC plans to present our findings to the California Board of Psychology.

Following our survey emailed to SDPA members in 2022, a dozen respondents offered to be interviewed by GAC members. SDPA members' experiences fell into two categories: experiences with the BoP Administrative Division, having to do with the licensing process, wait times, etc., and experiences with the BoP Enforcement Division, having to do with how complaints against psychologists are dealt with by the BoP. This article describes the members' experiences with the Enforcement Division. All of the Enforcement issues/problems listed below were cited by two or more respondents:

1. **A MINORITY OF CASES:** The majority of SPDA members reported having no experience with enforcement or disciplinary action from the BoP. (In fact, less than 4% of all complaints to the BoP result in an enforcement investigation).
2. **TRAUMATIZING EXPERIENCES:** Most of our respondents who were the subjects of BoP enforcement investigations reported lengthy, expensive, traumatizing experiences. Statements included: "When the Board of Psychology decides to go after you, they REALLY go after you"; "When you are investigated by the Board of Psychology, you are assumed guilty until proven innocent"; and "My case went on for years."
3. **THE SLEDGEHAMMER:** A common complaint against the BoP was that the Board came down hard on all cases they chose to investigate, making no distinctions between egregious violations and unintentional errors on the part of the psychologist, even when the unintentional errors did not lead to significant harm.

4. **PROTECTING THE CONSUMER:** A common complaint was that the Board justifies harsh punishments by claiming that in doing so they are protecting the consumers of psychological services. Respondents believed that the consumers would be better served by the Board taking an educative approach to unintentional errors, such as requiring that the offending psychologist engage in additional continuing education around their area of violation. Respondents also reported that the BoP's reputation for striking terror in the hearts of California psychologists and prospective psychologists only serves to discourage people from entering or staying in the field of psychology, at a time when there is already a shortage of psychologists and a lack of access for consumers. A punitive approach that further limits consumer access to mental health services cannot be justified as acting in the interests of the consumers.

5. **THE PROCESS:** The most common complaint from our respondents about the BoP investigative process, in addition to its length and cost, was the fact that the outcome was largely determined by one expert reviewer. Respondents reported that the full Board does not read the full facts of the case or the psychologist's defense or explanation of what transpired. Rather, the Board receives only the expert reviewer's summary and recommendations, which the Board routinely accepts. There were several problems cited with this model. One problem is the minimal requirements to be an expert reviewer (a California psychology license in good standing, some forensic experience, an active psychology practice, three or more years of expertise in the specific area of practice they are reviewing, no prior or current charges or formal disciplinary actions, and no criminal convictions). Another is the fact that the expert reviewer has no paid access to consultation from another Board expert reviewer. In fact, one of our respondents was a former expert reviewer who quit the job largely because of lack of consultative support provided for that position ("I was uncomfortable with too much power and responsibility in that position, with no support"). One of the SDPA respondents was notably senior in experience and reputation to the expert reviewer on his case (and in fact the respondent is also a former expert reviewer himself). The expert reviewer ruled against this respondent based on what the respondent knew to be erroneous information. Appealing the expert reviewer's findings and recommendations would have required more legal expenses and time than the respondent was willing to put in. Finally, the Board was perceived as "rubber-stamping" the expert reviewer's recommendations without reading the facts of the case. Given the fact that less than 4% of complaints result in investigations, carefully scrutinizing a full case before accepting the expert

reviewer's recommendations would seem to be an important function for the full Board. Doing so could lessen the negative impact on the psychologists who come before the Board and also the negative impact on the BoP's credibility when the Board expert reviewer gets it wrong.

If you have any information or input that you think could inform our GAC investigation going forward, please email Dr Janet Farrell at janetafarrell51@gmail.com. Thank you.

SDPA Government Affairs Committee