

# Independent Practitioner

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**APA 2023**

***Malpractice Lawsuits: Could Serving as an  
Expert Witness Put You In Legal Jeopardy?***

— **David Shapiro**

***Officer Report*** — **Financial Update**

# Independent Practitioner

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May 4, 2023

Dear colleagues,

I am very pleased to announce that Dr. Robin McLeod will serve as the inaugural Senior Director for Strategic Relations and Leadership for the American Psychological Association (APA) in the Practice Directorate.

Dr. McLeod will lead the Association's efforts to strengthen relationships and align strategies between APA staff and governance, practice communities, and practitioners. These efforts are ultimately expected to advance the work of psychologists, advocacy for the profession, policy and leadership development, and member engagement and belonging.

Dr. McLeod brings her experience and understanding of APA, affiliated groups (Divisions and SPTAs), and the practice and regulatory communities to this new role. She is a licensed psychologist, a well-known and respected leader, and an expert in psychology regulations and practice. She has recently served as President of Division 42 (Psychologists in Independent Practice), member of APA's Council of Representatives, 2022 Chair of APA's Board of Professional Affairs (BPA), member of the Minnesota Board of Psychology and Chair of this licensing board for the past four years (2019-2022), 2016 President of the Minnesota Psychological Association, member of the PSYPACT Commission, and several other roles.

Dr. McLeod received her PhD from an APA-accredited program in Counseling Psychology at the University of Minnesota, where she also completed her clinical internship at University Counseling & Consulting Services.

Dr. McLeod's career has been dedicated to developing and implementing innovative business and practice strategies that enable psychologists to maintain viable practices within the evolving health care industry. Over the past 20 years Dr. McLeod grew her solo, independent practice into a group practice that served clients in six locations across the Twin Cities. Her practice set leading-edge standards of care for pediatric and immigrant populations, built strong relationships with payers to meet measurement-based quality standards, and embedded practicum, internship, and postdoctoral fellowship training experiences. These extensive, real-world experiences will help Dr. McLeod appreciate and give voice to the perspectives of practicing psychologists and trainees in order to collectively prepare the profession for the future.

Dr. McLeod will begin work in APA's Practice Directorate on July 10, 2023. In anticipating how she will connect with psychologists, trainees, and groups such as APA Divisions and SPTAs and others, Robin reflected that, "As our profession evolves in response to the demands of a changing world, it is vitally important that psychologists work together and lead the way to have even greater impact on improving peoples' lives. I look forward to continuing to collaborate with and support psychologists as we prepare the profession for the future."

Please join me in warmly welcoming Dr. Robin McLeod to her new leadership role in APA.

Best Regards,



Jared L. Skillings, PhD, ABPP  
Chief of Professional Practice, American Psychological Association

### Financial Overview and Forecast

Gerald Koocher

As I prepare to hand the reins of our finances over to our newly elected treasurer, Dr. Sidney M. Trantham, this seems a good time to update our membership on Division finances. Our primary sources of revenue are dues, investment income, and journal royalties. Our dues income has trended downward as the number of our members who have reached dues exempt status has grown. Over the last four years, dues income has averaged just under \$60,000.

#### Investments

Thanks to wise advice from former president Stan Graham, the Division began a long-term investment account managed by Wells Fargo Advisors in 2013. Our investments are in an actively managed "basket" of mutual funds designed to preserve principle with moderate growth. In 2021, our net investment income was \$52,054.79 and in 2022, the net income was \$47,138.41. Thanks to growth in the stock market, we have benefitted significantly over time as reflected in the total asset graph shown below. The dotted trend line shows solid growth over time despite market fluctuations.

On July 12, 2023, the balance in our investment account was \$708,013.51 with additional cash of \$46,964.11 for a total of \$754,977.62. The cash account is used to pay monthly expenses, and our investment account is divided into an operating reserve and a strategic reserve. The operating reserve of approximately \$200,000 can be tapped by a majority vote of the Board of Directors and tapping the strategic reserve of approximately \$500,000 requires a two-thirds vote. The strategic reserve provides a steady source of annual income and allows the Board to invest in innovative or urgent projects.

Our other principal source of income is journal royalties paid from subscriptions and article downloads from *Practice Innovations* by our publisher (APA). APA pays \$8,000 per year toward the cost of our editor's stipend. *Practice Innovations* net royalties in 2019 = \$28,770.75, 2020 = 29,469.15, 2021 = \$42,558.92, and 2022 = \$45,112.99. This income reflects the excellent value of manuscripts published in the journal under the leadership of Editor Jeff Zimmerman. The well-regarded manuscripts lead to royalty fees for downloads of articles. The cost of a subscription is built into members' dues. Interestingly, our ten year contract with APA began January 1, 2016, and we were told not to expect any revenue for several years, but we began to see royalties by 2018. We will soon begin negotiations with APA on a contract renewal.

The Division's annual budget has run in the \$130,000 to \$150,000 depending on the year and any particular Division initiatives. We typically budget for a small deficit in the \$20,000 range because we cannot predict investment income or journal royalties a year in advance. Last year we budgeted expenses of \$154,600 with a potential shortfall of \$23,041 but finished the year with \$18,187.47 in revenue over expenses. The 2023 budget authorized a potential deficit of \$28,800, but I expect the year will end with a surplus because of good expense monitoring and the current upsurge in the financial markets.

Our Finance Committee proposes a budget to



the Board each August for the following calendar year, and the Board can make amendments, as needed, throughout the year. In addition to the Treasurer, serving ex officio, the Finance Committee has five Division members. If you have an interest in serving, reach out to

President Lesnik who will appoint next year's Committee.

Respectfully,

Gerry Koocher, PhD, ABPP

## Division 42 Fellows Update

### Recognizing Division 42 Current "Old" Fellows

#### June W. J. Ching, Chair, Division 42 Fellows Committee

The Division 42 Fellows Committee in conjunction with the Division 42 Board of Directors are excited to recognize our newly elected **CURRENT Fellows**:

- F. Michler Bishop, PhD
- Bruce Bobbitt, PhD
- Priscilla Dass-Brailsford, EdD
- Donald McAleer, PsyD
- Beth Rom-Rymer, PhD
- Tony Rousmaniere, PsyD

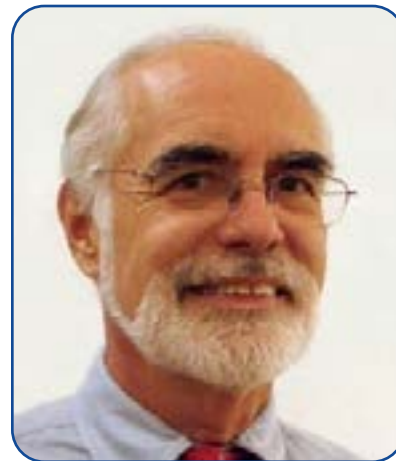
These Current Fellows were previously accepted as APA Fellows through another division but were not Current Fellows of Division 42. In addition to meeting the requirements established by APA for designation of Fellow status, candidates submitted materials which evidenced furtherance of high-quality psychological services and demonstration of significant and lasting contributions to the practice of psychology.

Fellow status is a way for Division 42 to showcase our division's contributions within APA and to the general public. More importantly, it is a way to identify and honor individuals for their extraordinary work and contributions to the independent practice of psychology. The newly designated Current Fellows of our Division will be recorded in the APA database as of January 1, 2024.

It is an honor to share highlights of the newly elected Current Fellows of Division 42:

#### F. Michler Bishop, PhD

- For over 36 years, Dr. F. Michler Bishop's work has been devoted to improving the way in which psychotherapy is practiced with a kinder, more compassionate, science-based approach to the treatment of addiction.
- Dr. Bishop has been instrumental in the development of SMART Recovery's Four-Point Program, an alternative to 12-step AA meetings. SMART refers to Self-Management and Recovery Training. This recovery transformative method is based on principles underlying Cognitive Behavior Therapy (CBT), Motivational Interviewing (MI), and the Stages of Change Model. SMART now has over 3,000 meetings in 20 countries and a 24/7 chat. Dr. Bishop has conducted numerous workshops on CBT, Rational Emotive Behavior Therapy, MI,



and SMART Recovery in the United States and Internationally.

- Dr. Bishop's seminal book entitled *Managing Addictions: Cognitive, Emotive and Behavioral Techniques* has been regarded as cutting edge in the paradigm shift in addiction treatment. He also has written *Am I Addicted? 24 Questions and Answers to Help You Change an Addictive or Semi-Addictive Behavior*, which is now also available in Spanish.

#### Bruce Bobbitt, PhD

- Dr. Bruce Bobbitt has been a licensed psychologist in Minnesota for nearly 40 years. He was instrumental in promoting how measurement can improve both population health and the care of individual patients regardless of practice setting. As early as the late 1990's, he advocated for psychologists to learn about the quality improvement processes and metrics pertaining to practice, and for APA to adopt clinical practice guidelines. Dr. Bobbitt chaired the APA Mental and Behavioral Health Registry/Measurement-Based Care advisory committee. Most recent documentation of this work is a *Psychotherapy* article published in January 2023.
- Dr. Bobbitt has been an exemplary leader and advocate for the protection and advancement of psychology's scope of practice. He was on the MPA Governing Council for 16 years and was instrumental in advocating for the maintenance of doctoral level standard for licensure, preventing an Applied Behavioral Analyst Bill from becoming law, and for successful adoption of PSYPACT in Minnesota in 2021. Dr. Bobbitt and his MPA colleagues were awarded APA's Karl F. Heiser Presidential Award for



Advocacy on behalf of Professional Psychology.

- Dr. Bobbitt's distinguished service to organized psychology was exemplified through both his service nationally as an APA Council of Representatives (COR) member for Minnesota and also as consulting editor for *Professional Psychology: Research and Practice* beginning in 1994. He has continued ongoing engagement in professional and career mentoring of doctoral students, ECPs and psychologists.

#### Priscilla Dass-Brailsford, EdD

- Dr. Priscilla Dass-Brailsford, a graduate of Harvard University, is a clinical psychologist, professor/faculty member in the Department of Psychiatry at Georgetown University Medical Center. She studies the effects of trauma, violence, abuse, and other stressful events with the goal of developing culturally competent therapeutic and community interventions among marginalized populations. Dr. Dass-Brailsford is particularly interested in whether individuals from historically oppressed or stigmatized groups experience unique stressors or exhibit culturally specific coping processes. Before pursuing an academic career, Dr. Dass-Brailsford coordinated a Community Crisis Response team for the Victims of Violence program at Cambridge Health Alliance (MA) that responded to affected communities in the aftermath of trauma.
- Clinically, Dr. Dass-Brailsford has expertise in treating trauma and PTSD and primarily sees clients affected by trauma, violence, and abuse at Georgetown University Hospital and in her private practice. She is a PTSD expert for the courts, and she has testified in several PTSD-related cases.





- Besides numerous other publications, she is the published author of three books: *Trauma, Violence and Abuse* (2020); *Disaster and Crisis Response: Lessons Learned from Hurricane Katrina* (2009); and *A Practical Approach to Trauma: Empowering Interventions* (2007). Dr. Dass-Brailsford is an APA Fellow of Divisions 17, 35, 45, and 56 and Chair of the Fellows Committee for APA's Division of Trauma.

### Donald McAleer, PsyD, ABPP

- As a board certified clinical psychologist, Dr. McAleer has demonstrated distinguished and sustained service in the practice of medical psychology/neuropsychology. In 1998, he and several other colleagues formed an independent group practice, Northshore Psychological Associates (NPA), where he has been for the last 25 years. NPA is the largest independent practice of psychology in the regional area of Erie, Pennsylvania. In addition to extensive outpatient work, NPA provides direct inpatient neuropsychological and psychological consultation to two acute hospitals, one subacute hospital, one rehabilitation hospital and 15 extended care facilities. NPA's acute inpatient consultations have been utilized by various medical specialties including cardiology, internal medicine, neurology, oncology, and trauma services. NPA's outpatient specialty services include a dementia clinic (in conjunction with neurology), weight management clinic (in conjunction with bariatric services), concussion services, sport psychology, and services to local police departments.
- Reflecting a commitment to professional psychology training, NPA founded an APA accredited internship consortium in 2003, which continued through 2021. The program has



since transitioned to a formal residency/fellowship program at NPA where Dr. McAleer currently serves as the Director of Training.

- Dr. McAleer has been actively involved in public policy and in the advancement of legislative efforts for psychological practice, along with leadership in organized psychology at the local, state, and national levels for over 30 years. In 2008, he was the recipient of the Karl F. Heiser APA Presidential Award for. He is Past President of the Pennsylvania Psychological Association, past representative to APA's Council of Representatives (COR), a former member of the Pennsylvania Board of Psychology, and a Fellow of Division 31.

### Beth Rom-Rymer, PhD

- Dr. Beth Rom-Rymer has been a pioneer throughout her life. For instance, she was in the first class of women undergraduates at Princeton University (Class of '73); created the first Victim-Witness Assistance Unit in Florida's 2<sup>nd</sup> District State Attorney's Office; and co-founded/became the first Board President of Refuge House, a shelter for domestic violence survivors, in Tallahassee, Florida, 1977-1979. Dr. Rom-Rymer helped to create the field of forensic geriatrics in 2000 and taught at several universities, in the departments of psychiatry, including The University of Chicago and Northwestern University. Dr. Rom-Rymer has practiced as an Illinois clinician and national consulting forensic expert witness since 1987.
- As President of the Illinois Psychological Association (IPA), Dr. Rom-Rymer led the 2012-2014 successful Illinois legislative movement for Psychologists' Prescriptive Authority. She continues to implement Prescriptive Authority legislation in Illinois as CEO and President of the Illinois Association of Prescribing Psychologists



(IAPP); consults with State Psychological Associations, nationwide, and with international psychologist leaders, on legislative advocacy campaigns. Dr. Rom-Rymer recently co-founded and is President of the Association of Jewish Psychologists (AJP).

- Dr. Rom-Rymer has held numerous roles in APA leadership and has received several awards for her work, including from IPA, APA, the Chicago School of Professional Psychology, the National Register of Health Service Psychologists, AMITA (Ascension) Behavioral Health Hospital, the South African Society of Prescribing Psychologists, and the Society of Indian Psychologists. Dr. Rom-Rymer has given invited addresses nationally and internationally, most recently in South Africa, and has appeared in multiple media outlets. She has written articles on the role of the forensic psychologist in the courtroom and the training parameters of the prescribing psychologist. Dr. Rom-Rymer is completing a book, to be published by APA Press, "The Revolution in Healthcare: How Prescribing Psychologists are Changing the Healthcare Delivery System."

### Tony Rousmaniere, PsyD

- Dr. Tony Rousmaniere is Executive Director of the Sentio Counseling Center and a member of the clinical faculty at the University of Washington. He is licensed as a psychologist in three states and has engaged in distinguished service as a psychotherapist, supervisor, trainer, and researcher. Dr. Rousmaniere provides workshops, webinars, and advanced clinical training to clinicians around the world.



- Dr. Rousmaniere has made significant contributions to the practice of psychology as the author/co-editor of many books on deliberate practice and psychotherapy training and two series of clinical training books: "The Essentials of Deliberate Practice" (APA Press) and "Advanced Therapeutics, Clinical and Interpersonal Skills" (Elsevier). In 2017 he published the widely cited article in *The Atlantic Monthly*, "What your therapist doesn't know." Dr. Rousmaniere supports the open-data movement and publishes his aggregated clinical outcome data, in de-identified form, on his website at [www.drtonyr.com](http://www.drtonyr.com).
- An APA Fellow, Dr. Rousmaniere is Incoming President of APA Division 29 (the Society for the Advancement of Psychotherapy). He was recognized by APA Division 29 with the Early Career Award for his achievement of excellence.

### Appreciation

Much appreciation to Dr. Pauline Wallin and Dr. Peter Oppenheimer, Division 42 Fellows Committee Members, for their dedicated service in identifying, encouraging, and reviewing candidate materials from members who "show evidence of unusual and outstanding contributions with national impact in the field of psychology and independent practice in particular" to apply for Current Fellow status within Division 42.

### Division 42 Initial APA Fellows

**Initial** APA Fellows sponsored by Division 42 will be announced later this year after the APA Board of Directors and Council of Representatives (COR) convenes in August 2023 and approves the submitted candidates.

## February 2023 Council Meeting Report

By Lisa Grossman, Jana Martin, Dinelia Rosa, and Laney Ducharme

Division 42 welcomed our newest Council Representatives, Dr. Laney Ducharme and Dr. Dinelia Rosa. With mentorship from our current representatives, Drs. Grossman and Martin, they were quick studies given the overwhelming learning curve. Dr. Ducharme even mustered the courage to speak at the microphone, not once, but several times! We are definitely in good hands with our new Council Reps!!

The February 2023 Council meeting, as most meetings, had its own distinctive ambiance. APA President, Dr. Thema Bryant, infused the meeting with her inclusive, healing, and empowering words and actions, encouraging an atmosphere of harmony and cohesiveness that was welcomed. Dr. Bryant's distinctive style included singing and member interactions affirming the notion that we are all one. At the beginning of both meeting days, for example, Dr. Bryant presented her welcoming remarks entitled, "Setting the Tone: Interfaith Proverbs." She requested members with differing spiritual beliefs to share a proverb from their spiritual space. At the plenary session she held a 1 ½ hour session entitled, "Decolonization and Liberation of Psychology," presented by Drs. Helen Neville and Anneliese Singh, as well as a presentation at Council entitled, "Reflection and Enrichment: Healing Intergenerational Trauma" presented by Jennifer Mullan, Psy.D. When a member made a comment to the Council presenter, many present took offense, and a lengthy impromptu discussion was held to discuss how that comment was felt as a microaggression and was hurtful. And when the news came out that our Saturday meeting was on the same day as the Day of Hate where neo-Nazis planned to assault various synagogues around the country, Dr. Bryant allowed a small group of Jewish members and supporters to read a statement of unity against antisemitism from Council floor, and before it was even asked, all

members of Council stood in unity against this and all forms of oppression and hate.

The agenda was considered "light," so there was ample time for discussion and debate on the various agenda items. Following are highlights from these discussions taken from what APA issued to all Council members.

### Confidentiality and Reproductive Health

Council passed this policy asserting that confidentiality is central to the practice of psychology and that psychologists should follow the APA Ethics Code when it comes to patient confidentiality surrounding reproductive health. The policy affirms "that a psychologist's allegiance to the Ethics Code including standards related to patient confidentiality should be given the utmost attention and significance especially when psychologists are faced with ethical conflicts with a law requiring the disclosure of confidential information regarding sexual and reproductive health, including birth control, fertility treatment; contemplating, seeking or having had an abortion; and related issues." The vote was 148-4 in support of the policy, with one abstention. This measure follows on a resolution the Council passed in February 2022 reaffirming APA's commitment to reproductive justice as a human right, including equal access to legal abortion, affordable contraception, comprehensive sex education and freedom from sexual violence, with a particular emphasis on individuals from marginalized communities. Our DIV 42 Council Reps voted for this item. A shout out to Dr. Lenore Walker for her consistent work on these issues when on Council.

### Establishment of a Committee for the Advancement of General Applied Psychology

The Council voted 144-13, with one abstention to amend the Association Rules to establish a Committee for the Advancement of General Applied Psychology. The committee's purpose will be to promote in settings outside the direct delivery of health care services, the utilization, application, and advancement of science where psychologists work to enhance performance, learning and well-being of individuals, groups, organizations, and society as a whole.

Our DIV 42 Council members had concerns about this item, thinking that these settings are still under practice and should be housed as a committee under our Board of Professional Affairs (BPA) and, therefore, felt that they could not vote in support of this item.

### Adoption of Policies

The Council unanimously adopted revised *APA Principles for Quality Undergraduate Education in Psychology* and approved December 2032 as the expiration date. These principles offer best practices that faculty members, programs, and departments can adopt to facilitate student learning and development, in ways that fit their institutional needs and missions. This document is designed to complement, and be used in conjunction with, *APA Guidelines for the Undergraduate Psychology Major*.

The Council voted 151-4, with one abstention to adopt *Educational Guidelines for Equitable and Respectful Treatment of Students in Graduate Psychology Training Programs*. These guidelines encourage graduate psychology programs to promote the equitable and respectful treatment of graduate students throughout their education and training so that students may fully benefit from their graduate education and maximize their potential within and beyond their graduate programs. This agenda item was first presented at last summer's meeting. At that time, our DIV 42 Reps had several concerns about the language as it was written and also wanted a companion document for the respectful treatment of faculty. Given these concerns as well as those of other Council Reps, this item was sent back to the authors for revision. The current document successfully addressed our concerns, and we were promised that a com-

panion guideline for faculty is already in the works.

The Council adopted a resolution on *Equity, Diversity, Inclusion and Accessibility (EDIA) in Quality Continuing Education and Professional Development* by a vote of 139-89, with two abstentions. This resolution is aimed at providing evidence-based recommendations to support the integration of EDIA and accessibility in continuing education for CE sponsors and the broader public. The policy may be used as a foundation to develop additional resources that build on this document and provide tangible support to CE sponsors to infuse EDIA thoughtfully and intentionally in their offerings. Our DIV 42 Council Reps supported this item.

### Amendment to Association Rules

The Council voted 147-2 with four abstentions to amend the Association Rules to modify the review process for Board of Directors (BOD) member-at-large candidates and to apply that review process to all other members of the BOD. Changes include asking prospective candidates, upon being slated, to disclose to the Election Committee any claims made against them within the last 10 years for malpractice or unethical or unprofessional conduct, and/or if they are currently the subject of criminal indictment. The Election Committee will then evaluate the disclosers and determine whether the candidate can remain on the slate. The decision of the Election Committee can be appealed to the BOD. Our DIV 42 Council Reps supported this item.

### Guidelines

The Council voted unanimously to extend the effective date of the *APA Specialty Guidelines in Forensic Psychology* through December 2026. The purpose of these guidelines is to "improve the quality of forensic psychological services; enhance the practice and facilitate the systematic development of forensic psychology; encourage a high level of quality in professional practice; and encourage forensic practitioners to acknowledge and respect the rights of those they serve."



## Recommendations from the Council Effectiveness Implementation Oversight Task Force

The Council voted to accept recommendations to publicize new business items in advance of Council meetings and give the movers and any opponents time to address the new business items at the Council Plenary session. The motion passed 104-40, with 11 abstentions. This was part of a series of recommendations aimed at making it easier to get new business items on the Council agenda. Several recommendations related to this effort were postponed until the August meeting.

The Council voted 103-2, with two abstentions, to create a liaison program of Council members who would be assigned to up to eight selected boards and committees. The program will be managed by the Council Leadership Team.

These two agenda items were just a few of the innovative items developed by Council. Several of our DIV 42 Reps have been key players in the formulation of these innovative changes, but a special shout out goes to our Past President, Dr. Peter Oppenheimer, for his persistence, fortitude, and aplomb in not only developing and presenting these items on Council floor but also in effectively responding to all questions hurled at him for a substantial period of time. Bravo, Peter!

## Report of an Offer of Apology, on behalf of APA, to First Peoples in the United States

The Council accepted a *Report of an Offer of Apology, on behalf of the American Psychological Association, to First Peoples in the United States*. This report builds upon *APA's Apology to People of Color for APA's Role in Promoting, Perpetuating, and Failing to Challenge Racism, Racial Discrimination, and Human Hierarchy in the U.S.*, which the Council adopted in October 2021. The offer of apology to First Peoples will be delivered by the APA President to the Society of Indian Psychologists (SIP) at a time and place to be determined jointly with the SIP leadership. The report was received by a vote of 148-

2, with three abstentions. Our DIV 42 Council Reps supported this item.

## Reflecting on APA's Strategic Plan and Progress To-Date

Council began the process of reviewing and updating APA's current strategic plan. Since the strategic plan was adopted in 2019, APA has been regularly gathering information to assess progress in advancing its short- and long-term goals. Rooted in APA's organizational foundation of science and belief in data-driven decision-making, APA governance and staff are asking questions that probe the effectiveness of APA's transformation in accomplishing the association's mission and achieving its intended impact. Four years into the implementation and evaluation of the strategic vision, the data show APA generating a noticeable momentum as an association. A review of the strategic plan and accomplishments are available publicly in *IMPACT in Action: Reflecting on APA's Strategic Plan and Progress To-Date*. While Council participated in table discussions responding to questions asked by a facilitator, it should be noted that we never received any feedback or results of how our responses were integrated into the strategic plan.

## Presidential Citations

APA President Thema Bryant presented Presidential Citations to psychologists Gordon C. Nagayama Hall, Ph.D., and Wendi Sharee Williams, Ph.D., for their notable contributions to the field.

Respectfully submitted,

Your Division 42 Council Representatives

Drs. Laney Ducharme  
Lisa Grossman  
Jana Martin  
Dinelia Rosa

## Focus on Forensics

# Malpractice Lawsuits: Could Serving as an Expert Witness Put You In Legal Jeopardy?

David Shapiro

**M**alpractice—one of the scariest words in any health field. While our continuing education courses related to ethics help us “do good” and “avoid harm” to our patients/clients, risk management courses help us protect our professional licenses. With pressure and intensity surrounding many legal cases, how does a forensic psychologist act within the best interest of their client while they carry out their duties as an expert witness without putting themselves in legal jeopardy? How does an expert witness avoid being blamed for an unsuccessful outcome to a case?

The “witness immunity doctrine” provides witnesses who testify in a court of law with immunity from lawsuits based on the content of their testimony during legal proceedings. *Briscoe v. La Hue* (1983), a landmark case based on this doctrine, ruled that even in the case of witnesses perjuring themselves, their testimony could not be the basis for a civil lawsuit. The spirit of this doctrine contends that witnesses (including expert witnesses) should be free to offer information/opinions without intimidation and/or retaliation from litigants. That said, if a witness is found guilty of perjury, they could be criminally prosecuted, a different type of legal action that has a higher burden of proof.

The jury is still out (pun intended) on the validity of witness immunity; however, a number of courts have recently raised questions about whether expert witnesses may be found civilly liable if they were negligent in their professional duties as an expert on a case. While a little more than a handful of states address this issue in their case law (e.g., California, Connecticut, Louisiana, Massachusetts, Missouri, and Pennsylvania), other states may be carefully consid-

ering the witness immunity doctrine in the future.

With doubts about this long-standing accepted practice on the table, psychologists who are often called to serve as expert witnesses should consider issues related to professional negligence. Typically, negligence is seen as an essential component of malpractice claims, which are based on four (4) factors.

1. There is a professional relationship between two parties.
2. There is a standard of care that is widely accepted by professionals in the field.
3. There is a concern/claim that the professional deviated from the accepted standard of care.
4. That deviation directly caused injury, harm, or loss to someone.

Based on the criteria above, pursuing a malpractice lawsuit against an expert witness would prove difficult. Our field defines a “widely-accepted standard of care as what a reasonable psychologist would do or should have known under the same or similar circumstance. However, we don't have an objective measure or definition of a “reasonable psychologist” and how do we account for what someone “should have known?” How do we define what situations are “similar?”





Most importantly, how do we distinguish between a deviation from standards of practice, a difference of opinion, and neglect of professional duties? It's important to note that "deviation" from an accepted standard of care is not simply using a method/intervention that is not typically used. Psychologists have the right and responsibility to use long-standing *and* emerging interventions that are rooted in empirical data as long as the intervention is not contraindicated for the patient.

Notably, the fact that it is difficult to successfully sue an expert witness does not mean that professional and licensing board sanctions won't apply. Licensing boards consider ethical issues related to competence, which refers to a provider's degree of skill, care, and proficiency in executing professional services. Licensing boards typically do not require evidence of harm; therefore, it's more likely that a psychologist would be sanctioned by a licensing board than be found guilty of malpractice.

In 1997, the Washington State Supreme Court ruled that the State Board of Psychology could discipline a psychologist who allegedly failed to meet ethical standards in rendering expert testimony in several child custody cases. The Court ruled that while immunity may be utilized to protect expert testimony in a civil context, that immunity did not apply to licensing board hearings (Deatherage, 1997).

It is important to note that the most recent addendum to the *Federal Rules of Evidence* (2020), a document that discusses admissibility criteria, concludes that expert testimony should be based on "sufficient information." Standard 9.01 of APA's Code of Ethics is aligned

with this addendum as it requires that "conclusions, diagnoses, and recommendations need to be based on information sufficient to justify the conclusion." While the language in both of these documents does not specifically address "standards of care," the spirit is the same—expert witnesses must present opinions/evaluations based on a multitude of data sources.

In summary, while there is general immunity for expert testimony, criminal litigation and board complaints may still be viable options to redress concerns related to professional competence and negligence. As such, psychologists should familiarize themselves with state licensing board regulations (many of which are identical to the American Psychological Association's *Ethical Principles of Psychologists and Code of Conduct*) as well as with professional guidelines such as the *Specialty Guidelines for Forensic Psychology*.

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### "Gotta Make You Understand"

Pat DeLeon

**A**PF – Psychology's Too Often Hidden Gem: CPT Airyn Nash, USU Psychology Graduate Student: "The American Psychological Foundation Fireside Chat with Robert Sellers. Though February is time dedicated to highlight achievements of Black Americans, Black history is American history and isn't regulated to just one period of time for the year. Though Black History Month is over, the lessons learned continue to be remembered, implemented, and practiced every day. In February, APF hosted Robert Sellers for a fireside chat where I had the opportunity to hear him share his experiences with advancing diversity, equity, and inclusion. Race as a social construct has an ugly history in our country; it's marks still leave open wounds that need to be healed. However, his efforts to understand and redefine the meanings we've attached to this social construct seem to be bringing us closer to the restoration we desperately need. As the decision for upholding or disbanding affirmative action is being reviewed at the Supreme Court, I found it inspiring that he had already forged a path where the University of Michigan would not be adversely affected by the outcome, because they are already practicing methods that avoid or minimize minority discrimination in their admission process for race, ethnicity, or nationality; an example many other schools can look towards. As a young, Black graduate student of clinical psychology, I'm grateful to have heard his vision for a better future for the Black community and America as a whole, and I look forward to ways that I can help carry the mantle to progress towards 'a more perfect union.' It was an honor to re-

ceive the feedback and insight from Professor Sellers and I hope these conversations can continue to be discussed among us all."

APF President, Terry Keane, noted that the staff and Trustees are committed to supporting projects and people that will address key societal problems that plague our communities with racism and discrimination high on their list of priorities. Within three months of the onset of the COVID-19 epidemic multiple grants from APF were awarded, several of which addressed the intersection of the pandemic and race. Immediately following the death of George Floyd, APF initiated a program to raise funds and support projects through their "Envision Ending Racism" initiative that supported deserving young psychologists who successfully competed for these funds. "Our priorities," said Terry, "are to identify in real time areas of great importance to the country and support the development of programs that help us understand the depth and the scope of the problem, while pointing to creative and innovative new directions." This is the heart and soul of APF.

**The Importance of Data-Based Policy:** Phil Hughes (Eshelman School of Pharmacy Division of Pharmaceutical Outcomes and Policy & Predoctoral Fellow at the Cecil G. Sheps Center for Health Services Research, University of North Carolina at Chapel Hill): "Given the recent surge in RxP bills submitted to state





legislatures and the passage of an RxP law in Colorado, especially thanks to the efforts of Jin Lee, the time is right to build a body of evidence about the impact that RxP has had on population mental health. To that end, I'm excited to share that I've recently led one study that is in press at *Professional Psychology: Research and Practice* and two studies that have been accepted for presentation at the 2023 Annual Research Meeting of AcademyHealth, one of the premier professional organizations related to health services research and health policy [<http://www.academyhealth.org/>].

"The first study, co-authored by Derek Phillips, Bob McGrath, and Kathleen Thomas, estimated the cost-effectiveness of RxP as a suicide prevention policy based on prior research showing RxP lowered suicide rates by five percent. After including the costs associated with opening a Master's of Science in Clinical Psychopharmacology program, training psychologists to prescribe, and licensing those psychologists, we estimated a 20-year societal savings of between \$286 million and \$370 million from suicide deaths averted. This suggests that RxP generates a tremendous cost savings in terms of suicide prevention, a number that likely increases substantially when less extreme outcomes are considered.

"The second study, a collaborative effort between Bob McGrath, Kathleen Thomas, and myself, uses behavioral health workforce data and national estimates of mental health need to simulate how widespread adoption of RxP might impact unmet needs for mental health prescribing. While the state-level estimates vary considerably, we estimated that unmet needs for mental health prescribing would decrease by approximately four percent nationally if RxP were adopted nation-wide.

"The third study was conducted by a multidisciplinary team including researchers from psychology, social work, nursing, pediatric medicine, and health economics. This study used five years of nationally-representative data on children's

mental health care needs and medication use to examine how racial disparities in pediatric mental health care vary with scope-of-practice policies (including RxP). We found that racial disparities for unmet mental health needs and receiving mental health medications were lower in states that had expanded scope-of-practice for either psychologists or nurse practitioners. Interestingly, despite there being considerably more nurse practitioners than prescribing psychologists, the difference in racial disparities were similar between the two policies, suggesting that prescribing psychologists are making a substantial impact in improving racial equity in mental health.

"Finally, while it is still too early to share many details, I'm excited to share that there are several additional RxP studies on the horizon from similarly multidisciplinary teams. These studies will continue to leverage this multidisciplinary skill-set in hopes of empirically addressing some of the most urgent questions regarding RxP, such as patient outcomes, in hopes of guiding future efforts to improve population mental health at the policy level. I'd be happy to discuss this further or connect to discuss opportunities to collaborate ([phughes1@email.unc.edu](mailto:phughes1@email.unc.edu))."

Economist Jeffrey Bauer estimated that by fully empowering non-physician providers to practice to the fullest extent of their education and training, our nation's health care costs could be reduced by 32 percent, which would result in an annual savings of \$155 billion. He further noted that he expressly, and unsuccessfully, sought to find any evidence demonstrating that non-physicians have clinical outcomes that are less successful than those of their physician counterparts. The American Association of Nurse Practitioners (AANP) reports that Utah recently became the 27<sup>th</sup> state in the nation – along with the District of Columbia, Guam, and the Mariana Islands – to enact Full Practice Authority for nurse practitioners (NPs). This was the fifth state to adopt Full Practice Authority with AANP support in the last three years.

**Respectful Interprofessional Collaboration is Critical to Success:** Bethe Lonning: "On April 28, 2023 Governor Kim Reynolds of Iowa signed HF. 183 into law. This legislation had passed the Iowa House 95-0 and the Iowa Senate 50-0 so clearly supported! This law removes several barriers in our original RxP law. As many know, the first law we get passed for RxP often includes some compromises that need to be addressed in the future. As was the case with our law in Iowa. So, the following barriers were removed.

"Our original law included the language 'in the 5 years immediately preceding application for a conditional prescribing certificate' and then listed all the components that need to be completed including the MSCP degree. The language '5 years' has been removed which will allow those who have received their training prior to 5 years ago and those who have received their training out of state to be able to come to Iowa to practice.

"Our original law also required supervising and collaborating physicians to be Board certified. That language has been removed and they now only need to be licensed. This opens the door for any physician to be able to supervise/ collaborate with prescribing psychologists. Finally, our law, along with many others, requires the prescribing psychologist to interact with the patient's primary care 'physician.' Many of you working in rural areas know there often is not a physician in the area, rather a nurse practitioner or physician assistant is providing the primary care. The new language now reads 'primary care provider' so that any patient receiving primary care can now be treated by a prescribing psychologist. These changes go into effect July 1, 2023, so I welcome anyone who wants to come to Iowa to practice. We're ready for you!"

**and Public Health Officials:** Earlier this year, the National Academies of Sciences, Engineering, and Medicine (NASEM) released its report *Attacks on Scientists and Health Professionals During the Pandemic*. Highlights: "Scientists and health professionals have long been targeted in connection with their professional work. Though this problem preceded the pandemic, it has emerged as a major concern, both in the United States and globally, as a result of COVID-19.... Scientists and health professionals have been subjected to threats and other attacks – online and offline – resulting from their efforts to combat the spread of COVID-19 with public health interventions and information. Reports of violence – carried out by numerous actors, including governments, groups, and individuals – are wide ranging and have come from all over the globe. In some cases, (our colleagues) have been targeted by multiple sources simultaneously, putting them at heightened risk of harm." Five webcasts were conducted examining this issue, concerns regarding repression of information during the pandemic, and implications for internationally protected rights.



## Practice Innovations

### Call for Submissions

We are looking for thoughtful articles relevant to clinicians in practice.

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Jeff Zimmerman, PhD, ABPP  
Editor  
[drz@jzphd.com](mailto:drz@jzphd.com)

### Unprecedented Times for Scientists

The targeting of Scientists and Public Health Professionals: The Chair of the NASEM Committee on Human Rights introduced the session noting that violence against scientists and health professionals is a multi-faceted problem with enormous implications for society. Such attacks occur in a range of contexts, including in response to researchers' work on sensitive topics and as a result of health professionals providing guidance and needed care in climates marked by fear, conflict, and mis- and disinformation. A survey of more than 300 scientists who had given media interviews related to COVID-19 found that more than two thirds had negative experiences with 22 percent receiving threats of physical or sexual violence and 15 percent receiving death threats. These attacks had been well-coordinated and have become an entrenched component of American politics, sometimes from politicians directly. Intimidation has been a theme of the targeting experience motivated by an attempt to disrupt the work. Far beyond the personal toll, this has long-term consequences for public well-being.

Global Patterns of COVID-19 related Violence against Health Personnel: These attacks, which have surged globally since the pandemic, often impair the delivery of health care and result in distress and "burnout" among health workers. Four types were identified – verbal aggression, physical aggression, damage or loss of assets, and obstruction of care, with verbal violence being the most common. These threats have resulted in unprecedented rates of depression, stress, "burnout," and PTSD, particularly among frontline nurses. As one might antici-

pate, the adverse impact on practitioners' mental health was frequently noted.

Censorship and the Right to Information: Global concerns regarding governmental repression of public health information was frequently highlighted. Attacks against science have been a recurring phenomenon during times of stress. Reflections on Science Communication and Human Rights amid Public Health Emergencies: The recent pandemic has underscored the critical role science communication plays during public health emergencies. Constructing a Human Rights Framework for Online Health-Related Speech: Repeated concerns were raised about the importance of maintaining freedom of expression and access to information during public health emergencies, as well as about inaccurate health information, all of which increasingly involve online speech. One particularly troubling trend was governmental use of measures such as censorship, sanctions, "fake news," and cybercrime laws to control the narrative on health care-related information. It was felt that many governments were using this framework to restrict legitimate discussion. Governments have also utilized disinformation as a way of crowding out legitimate information. Transparency regarding decisions which are made to moderate content is a critical concept. "Don't tell me you're too blind to see" (Never Gonna Give You Up, Rick Astley). Aloha,

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Pat DeLeon, former APA President – Division 42 – May, 2023



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**WASHINGTON DC**

**AUGUST 3-5**

**Division 42 Program**

Thursday, August 3

**8:30-9:20am: Resolving the Common Factors/Medical-Model Debate: Practices When Techniques Lack Inherent Power (CE Credit)**

Stephen Bacon, Ph.D.

Convention Center, Level 1: Room 144B

**2:00-2:50pm: Are You Ready for Value-Based Care? (CE Credit)**

Value-Based Care Panel

Convention Center, Level 1: Room 144B

**4:00-4:50pm: Div. 42 Poster Session**

Convention Center, Level 2, Halls D and E

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AUGUST 3-5

## Division 42 Program

*Friday, August 4*

**8:00am-9:50am: *Therapist's Personal Legacies of Multigenerational Trauma***

Alan Entin, PhD, ABPP, Ilene Serlin, PhD, BC-DMT, Irit Felsen, PhD,  
Andrew Berry, PhD, PsyD, Jessica Gourneau, PhD, BraVada Garrett-  
Akinsanya, PhD

Convention Center Level 1: Room 101

**1:00-2:50pm: *Planning for the Unexpected: Risk Management Considerations for a Successful Office Practice***

Allison Funicelli and Cara Staus

Convention Center, Level 2: Room 206

**3:00-3:50pm: Presidential Address and Division Conversation**

Blaine Lesnik, PsyD

Convention Center, Level 1: Room 150B

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## Division 42 Program

*Saturday, August 5*

**11:00am-3:50pm: Division 42 Board Meeting**  
Marriott Marquis, Level 3, Chinatown Room

**5:00-6:50pm: Division 42 Social Hour**  
Marriott Marquis, Level 4: Archives Room

### *Co-listed Sessions*

- **Harnessing the Clinical Value of Measurement-Based Care and Key Approaches to Implementation**
- **Arts-based Approaches to Working with Populations Experiencing Trauma**
- **Everything You Want To Know About Becoming A Coach But Are Afraid to Ask**
- **Breaking Into Consulting: A few questions and responses from diverse perspectives**
- **Addressing Worker Mental Health in the Food and Beverage Industry: Innovative Approaches**
- **Domestic Violence: Current Issues for Educators, Practitioners, and Policy-Makers**
- **Spiritual Care in Outpatient Care Settings: Opportunities for Chaplaincy Collaboration**
- **Novel Brain, Behavior, and Methodological Approaches to Understanding Substance Use Recovery**
- **Exceptional therapists: How to find them and what to do about them**
- **Changing Contexts: Innovative Techniques in Psychotherapy**
- **Understudied Factors and Mental Health Interventions for Sexual and Gender Minority Adolescents**
- **Intersection of Race, Ethnicity, Culture and Sexual and Gender Minority Older Adults**
- **Getting Unstuck When Youth Don't Progress: Innovative Clinical Decision-Making Tools and Paradigms**

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These articles offer clarity about strengths & weaknesses of a number of instruments to inform psychologists' preparation for expert testimony, lawyers' preparation for direct and cross-examination, judges' evidence admissibility determinations, and scholars' future research.

Articles on the Rorschach/R-PAS, MMPI-3, PCL-R, MCMI-IV & MACI-II, PAI and PAI-A, SIRS-2, HCR-20V3, TSI & TSI-2, & MacCAT-CA, ECST-R, and CAST\*MR are included. To increase visibility, accessibility, & impact, published as free access, meaning available to download without charge.

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(2.5 APA- and CPA-approved credits)! This project, funded by the National Science Foundation, is being performed to better understand how mental health professionals come to conclusions and make decisions in evaluations in legally-relevant cases. It also includes personalized feedback to help you understand your own behaviors with a didactic portion with video instruction. First is a dynamic and interactive portion in which you read materials from a case and make judgments about the material, followed by tailored feedback about your performance and suggestions for how to improve your expert judgment. Then, a didactic portion with video content follows. Please click here for more information and to participate: <https://training.concept.paloalto.edu/courses/neal-pronin-research>.







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