

Advocating for Neuropsychology/Why It Matters-2/7/22

Karen Sanders, PhD, ABPP/CN

Erica Brandling-Bennett, PhD, ABPP/CN

Assisting in presentation

- Nora Thompson, PhD, ABPP
- Paul Connor, PhD

Disclaimer

- The Pacific Northwest Neuropsychological Society (PNNS) is a 501(c)(3) organization. As such, PNNS is prohibited by federal tax law from supporting or opposing specific candidates or bills.
- A 501(c)(3) organization is allowed to engage in voter education and to educate candidates on matters of public interest.
- The presentation this evening is intended to be educational in nature, so that attendees can learn about the importance of legislative awareness and advocacy for the profession of Neuropsychology.
- PNNS as an organization does not take a position of any of the specific issues or bills discussed at this presentation.

Outline

- 1. Building awareness of the need for advocacy for Neuropsychology.
- 2. Building motivation for advocacy.
- 3. Ethical issues related to Third Party Observers
- 4. General How-To on the legislative process.
- 5. How to Advocate to provide a greater voice and presence for Neuropsychology
 - a. Individual – what vehicle can be used to alert others to get involved quickly.
 - b. Through a group (e.g., TPO and WSPA-LAC and others? And contact info)
- 6. Legislative web page how-to's present.
- 7. Wrap up and repeat the main points and contact info.
- Q&A
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Advocating for Neuropsychology/Why It Matters

- Advocating for Neuropsychology in Washington State and Why it Matters: An Interactive Workshop
- Presenters: Karen Sanders, PhD, ABPP, Erica Brandling-Bennett, PhD, ABPP/CN
- Learning Objectives:
 - 1. Learn about the importance of legislative advocacy for the profession of Neuropsychology in Washington State, including a recently sponsored bill with implications for the integrity of neuropsychological testing. Learn about ethical issues involved and why we need to advocate.
 - 2. Learn how to navigate the Washington State Legislature website to find information about your district/legislators, pending bills, and upcoming timelines for important legislation.
 - 3. Learn simple ways to communicate with your legislators in general and about specific bills, as well as three ways to participate in committee hearings.
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Awareness

A bit of history (Sanders early involvement) to date, formation of the TPO Task Force, efforts to work with WSPA and eventual move to IME Coalition.

- In 2020, Dr. Sanders notified PNNS via announcement due to great concern on basis of national/local NP concern, NP training and literature (position papers).
- A general announcement alerted PNNS members so they can do what they want.
- PNNS bylaws don't allow for advocacy, but individually, we still may need to do something and be aware of legislative activity in WA.
- Thus, the TPO Task Force was formed (the name may change to a broader name--- e.g. ,NP Legislative Task Force).
- The Task Force members have prepared information for legislators, PNNS, WSPA and IME Coalition including statements, citations of position papers and testimony at the 2022 WA Legislative Session.

Many thanks to TPO Task Force volunteers and PNNS members who wrote letters in 2021/22

- TPO Task Force
- Wendy Marlowe, PhD, ABPP
- Phyllis Sanchez, PhD
- Paul Connor, PhD
- Brad Powell, PhD, ABPP
- Nora Thompson, PhD, ABPP
- Rochelle Winnett, PhD, ABPP
- Erica Brandling-Bennett. PhD, ABPP

Motivation

- It is clear there is legislative activity that may impact NP.
- It is important that NP's have a voice and presence in legislative activity (e.g. note TPO action, scope of practice, insurance activity and payment).
- Individually we can act, if we choose, in various ways.
- Watch WA Legislative Website and upcoming bills. Know legislative deadlines for bills and WHEN it is too late to submit letters, etc.
- Learn to advocate, write letters, become informed, work with lobbyists, etc.
- Become a member of WSPA and LAC and watch action of WSPA regarding general psychology matters, but often specific NP matters. We need more than one NP on the LAC committee. May create a list of NP's who can rotate on and off the LAC committee.
- Join TPO Task Force. This is currently the only specific NP vehicle for our voice and presence in legislative matters.
- Often bills that pass in one state are then passed in other states, so we are protecting the profession nationally.
- Watch for bills to "re-appear" in the next legislative session, if they don't pass the first time (e.g. numerous variations of the TPO bill).

Summary of 2021 Position Paper on TPO Glen, et.al. TCN, Vol 35 (6), 1107-1116.

- Ethics considerations – Dr. Brandling –Bennett to review
- NAN, AACN and ACPN all oppose TPO particularly in medicolegal and forensic neuropsychological exams.
- However, if TPO happens it impacts all neuropsychological exams and the welfare of patients.
- Previous TPO position papers included NAN 2000(Axelrod, et.al) and AACN 2001 and policy statement of ABN 2016.

Concerns (Glen continued)

- TPO is a departure from standard procedures impacts reliability and validity of test data (recording or in-person observer both)
- In forensic evals there is no reciprocal communication with the client about results and recommendations.
- Legal tactic for attorneys who want to limit or eliminate neuropsychology by insisting on TPO
- Some exceptions include: children who are anxious, use of interpreters, NP trainees.

Test performance/validity (Glen continued)

- Observer effects were found in research to impact memory, attention, processing speed and executive functioning (Kehrer, Sanchez, --- Townes, 2000)
- Can lead to misinterpretation of results found in these settings.
- Can't compare two different sets of test data if one is standard and the other TPO.
- TPO effects are particularly prominent in forensic exams where the client has a "stake" in the outcome.

Ethical Guidelines/Code of Conduct (Glen continued)

- APA Ethical Principles of Psychologists and Code of Conduct (APA 2017) has four principles and ethical standards. (see Lewandowski et.al. 2016 – Applied Neuropsychology Adult 23(6), 391-398.
- General Principles of Beneficence and Nonmaleficence, Fidelity and Responsibility, Integrity and Justice precludes use of TPO as it compromises data, diagnosis and recommendations and impacts public welfare. (ABPN policy statement 2016)
- APA Ethical standards of Competence and Assessment (2017) are in conflict with TPO including interpretation of tests, test security.
- Standards for Educational and Psychological Testing (Am Ed Research Assoc – 2014) concern about non-qualified persons influencing test results and test selection. Puts NPs in violation of ethical and practice standards.

Test Security (Glen continued)

- 2017 APA Ethical Code Standard 9.11 – Maintain test Security
- 2017 APA 9.04 protection of test materials from third parties.
- Both protect public safety, so test taker not exposed to the material, content or structure. Detroit court case confirmed this need.
- Tests are used for high stakes decisions: competence, safety working as police/firefighter/pilot, pre-surgery evals, medications, treatment, return to play, academic accommodations.
- Could place the public at risk if testing impaired by TPO.

Other issues re: TPO (Glen continued)

- Courts have agreed that TPO not appropriate and NPs should submit an affidavit if confronted with this request. (Dr. Sanchez has an example of an affidavit)
- Conflicts with test publisher policies and contracts
- Now with tele-neuropsychology must have client sign documented agreement not to record and clarify difference between paraprofessionals who assist in tele-neuropsychology vs. TPO.

Attorney position (Glen continued)

- A priori implies that without observation a clinician acts unethically.
- This is contrary to all the professional standards outlined above.

New Test Security Article

- Boone, KB, et. al. 2022, Official Position of AACN on test security, TCN, Jan 19, 2022.
- <https://doi.org/10.1080/13854046.2021.2022214>

Goal of position paper

- To educate about test security in clinical, forensic, teaching and research settings as “previously test security guidelines were not adequately specific.”
- “Clinical neuropsychologists must commit to protecting sensitive neuropsychological and psychological test information from exposure to non-psychologists, and now have specific recommendations that will guide that endeavor.”
- Boone - 2022

AACN guidelines for test Security

- Neuropsychologists are increasingly called upon to provide services that may harm test security in areas of:
- Demands for TPO and recording are increasing.
- Provision of test materials to non-psychologists increasing.
- Psychologists and neuropsychologists reproduce test instructions in reports, on teaching materials available online, divulge answers to examinees, etc.
- Use of tele-neuropsychology requires consent procedures signed by examinee stating they agree not to record. (See Bilder article on PNNS website). Tele-neuropsychology used only when medically necessary, not standard of care.

Premise

- Adhering to test security guidelines ensures that non-psychologists will not have access to questions, stimuli and key operational information about the tests that could undermine the reliability and validity of the test results and thus the welfare of society.
- Neuropsychological tests are valuable as objective measures that increase diagnostic accuracy as opposed to self-report inventories and interviews. Without this objective data, exams are vulnerable to confounding variables that impact the diagnosis (e.g. mood, secondary gain, negative life events).

Societal impacts from diagnoses

- Public safety
- Judicial decision
- Educational system
- Medical care system
- Public and private services and resources (SSI)

To avoid coaching

- 75% of attorneys have been found through research to spend up to an hour preparing clients for exams. They cover test items, malingering exams, and brain injury symptoms.
- Many review the MMPI-2

Ethical Principles, Courts, Publishers and other professions support test security

- Ethical principles (APA- covered earlier)
- United States Supreme Court have addressed test security in Detroit Edison Co. V. National Labor Relations – 1979 and upheld public need for test security.
- Publisher copyright issues and need to protect trade secrets.
- Other professions adhere to test security (e.g. Bar Association)
- Bush and Marin (2006) upholds test security regardless of HIPAA due to the trade secret issue and the importance of protecting the data based on the principle of non-maleficence (avoid harming individuals from invalid exam results).

Requests for data or TPO

- Neuropsychologists can refuse the case and document that others in the profession also do not breach test security in any manner.
- (See Boone, 2022 for details)

Disclosure Statements

- Some have suggested stating your position about TPO in your disclosure statement and IME contracts and have those parties you will be working with sign the statement acknowledging your stance. This way those you work with know your position prior to the day of the exam. If TPO “show ups” on the day of exam you can fall back on your disclosure agreement.

TPO Statement

- **Argument Against Third-Party Observers in Neuropsychological Evaluations**
- A neuropsychological evaluation involves the review of the patient's medical and behavioral history, a diagnostic clinical interview, and the collection, analysis and interpretation of neurocognitive test data. The interpretation of the test data depends critically upon two things: 1) the information obtained in the review of medical records and in the clinical interview; and 2) the comparison of the patient's neurocognitive test data with the established statistical norms for the cognitive tests that are administered. To the extent that either of these aspects of the evaluation is compromised, the interpretation of the data (and thus, the value of the evaluation) suffers.
- There is considerable research that the presence of an involved observer (typically referred to as a third-party observer, or TPO) interferes with both the diagnostic clinical interview and the valid collection of neurocognitive test data. In the first instance, having a TPO in the room during the clinical interview makes patients much less likely to be forthcoming in their responses. In the latter instance, having a TPO in the room during testing tends to suppress performances. These findings have been reported for both in-person observers and third-party observations done via audio and video recordings. Valid comparison of the patient's test data with neurocognitive testing norms depends upon strict comparability between the testing procedures used to develop the tests and the procedures used during the administration of tests to the patient. None of the tests used in a typical neuropsychological battery were developed with a TPO in the room, and thus the presence of a TPO during a neuropsychological evaluation represents a significant departure in testing procedures and seriously compromises the integrity of the test data. In addition, TPOs are also a threat to test security, and strong arguments can be made that they violate ethical and professional standards in psychology as well.
- Because TPOs compromise the integrity of both the clinical interview and neurocognitive testing, the three most prominent bodies governing the practice of neuropsychology in the U.S., the American Academy of Clinical Neuropsychology (AACN), the National Academy of Neuropsychology (NAN) and the American Board of Professional Neuropsychology (ABPN), have published position papers against having TPOs in neuropsychological evaluations. The AACN policy statement takes the position that third party observers, whether live or through electronic recording devices, should not be permitted to observe a neuropsychological evaluation. The official statement from NAN focuses on the testing portion of the evaluation and also states that third party observers and recording devices should be barred from the evaluation. The third organization, the ABPN, finds that the research literature "overwhelmingly supports the negative consequences of either direct or indirect TPO or recording on the behavior of both the examiner and the examinee, and the validity of findings obtained in a neuropsychological assessment." This body recommends that neuropsychologists resist requests for TPOs and educate the referral sources as to the ethical and clinical implications. The ABPN also makes a distinction between TPOs and TPAs, Third Party Assistants, who are neutral third party participants whose presence is necessary for the evaluation to be completed, such as certified language interpreters, or a neutral observer who is thought to have little or no impact on the proceedings, such as a neuropsychological trainee.

Tutorial On the WA Legislative Website

- How to Access Bills.docx
- Navigate Your Way Around the Legislature Website 2021.docx
- **TPO bills for 2022 are: SB 5627 and HB 1763 and in 2021 SB 5102**
- Other 2022 bills include: Death with dignity (adding ARNP to assess competency); certifying BA level behavioral health counselors; prescriptions privileges for psychologists; etc.

Timing /Comments on a Bill

- Quote from IME Coalition member: “You can comment and suggest amendments to a bill right up until the time it passes and moves to the Governor. Generally, when they are on the floor of one of the houses getting ready for a vote, they want amendments 24 hours in advance. That is the rule actually. But I’ve been involved in amendments being drafted right before the bill goes to the floor.”
- **HOWEVER, IT WOULD BE BEST TO GET INVOLVED BEFORE THE BILL GOES TO COMMITTEE. (check the timeline)**

WA Legislative Website/Bill search tips

- There are currently over 900 bills, so using a set of search terms will help you:
- Search by specific topic/terms: (e.g. – “mental health”)
- Search by terms: Senate Bill (SB) or House Bill (HB)
- Search by year of legislative action: 2022

- See instructions for Navigating the WA Legislative Website

Navigating the WA Leg Website: leg.wa.gov



Legislature Home
House of Representatives
Senate
Find Your District
Laws & Agency Rules
Bill Information
Agendas, Schedules, & Calendars
Legislative Committees
Coming to the Legislature
Civic Education
Legislative Agencies
Legislative Information Center
Email Updates (GovDelivery)

Legislature Home

During 2021, in response to COVID-19, the House and Senate have the [House Covid-19 Operations](#) and [Senate Covid-19 Operations](#) proceedings click here for TVW . Please click here to go to the [co](#) [Members](#) .

What's happening on the floor?

The Legislature will convene for a Regular Session on January 10, 2022

Please check the [Committee Schedules website](#) for the most up-to-d

Scheduled hearings and floor sessions: 01/04/2022

Committee	Agenda	Date/Time	Loc
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Step 1

- **Finding Information about Your District/Legislators, Pending Bills, and Timelines**
- **To Find Your Legislative District**
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- From the homepage menu on the left, select Find Your District. Enter your street address and click Find My District. The page will display your district number, state senator and representative, and federal senator and representative, with hyperlinks to their details, including committee membership.
- **To Find Information About Pending Bills**
- 1. If you have the bill number, Select Bill Information from the homepage menu on the left side of the WA State Legislature home page. Enter the Bill # (no letters) and click Search. This will take you to a page that provides information about the bill's sponsors, committee, timeline, and documents, including the bill itself. For example: **TPO bills for 2022 are: SB 5627 and HB 1763 and in 2021 SB 5102**
- 2. To search for bills by topic, scroll down the Bill Information page Standard Reports column to Bills By Topic for an alphabetical list of topic categories.

Watch Timelines

- **To Find Information About Timelines**
- From the homepage menu on the left, select, Agendas, Schedules, and Calendars. The Session Cutoff Calendar gives deadlines for committees and floor actions. The Senate Weekly Meeting Schedules/Floor Schedules provides dates/times for senate committee meetings
- Key point: Make sure you send your comments and testimony prior to Committee meetings.

Communicating with Legislators

The screenshot shows the Washington State Legislature website. The browser address bar displays 'leg.wa.gov'. The main header features the text 'WASHINGTON STATE LEGISLATURE' in gold on a green background, with a small image of the state capitol building on the left and a circular seal on the right. A left-hand navigation menu lists various options, with 'Bill Information' highlighted by a red circle. The main content area includes a 'Legislature Home' section with a yellow alert box about COVID-19 access to the Capitol campus. Below this is a section titled 'What's happening on the floor?' which states that the Legislature will convene for a Regular Session on January 11, 2021, and directs users to the 'Committee Schedules website' for more information. At the bottom, there is a section for 'Scheduled hearings and floor sessions:' with a dropdown menu set to 'Today'. Below this is a table with columns for 'Committee', 'Agenda', 'Date/Time', 'Location', and 'Last Updated', which currently displays the message 'There are no scheduled meetings for the selected date.'

leg.wa.gov

WASHINGTON STATE LEGISLATURE

Legislature Home

COVID-19 Update: Access to Capitol Campus facilities may be limited during the COVID-19 re please visit the [Department of Enterprise Services COVID-19 Information page](#). For general in the [Washington State Coronavirus Response page](#).

What's happening on the floor?
The Legislature will convene for a Regular Session on January 11, 2021.
Please check the [Committee Schedules website](#) for the most up-to-date information concerning ir

Scheduled hearings and floor sessions: Today ▼

Committee	Agenda	Date/Time	Location	Last Updated
There are no scheduled meetings for the selected date.				

Bill page

The screenshot shows the Washington State Legislature's Bill Information page. The browser address bar displays 'app.leg.wa.gov/billinfo/'. The page features a green header with the text 'WASHINGTON STATE LEGISLATURE' and a logo. A left sidebar contains a 'Legislature Home' menu with items like 'House of Representatives', 'Senate', and 'Bill Information'. The main content area is titled 'Bill Information' and includes a search section with a 'Search by Bill Number' label (circled in red), a text input field for the bill number, a dropdown menu for the session (set to '2021-22'), and buttons for 'Bill' and 'Initiative'. To the right, there is a 'Find Specific Text in a Bill' search box. Below these are sections for 'Standard Reports' and 'Advanced Reports', with 'Detailed Legislative Reports' providing historical information back to 1991.

- Enter bill number (no letters)
- Note who are the sponsors
- Click the green button on the right: Comment on this bill

Steps to send your comments – Option 1

- Enter your home address and click on “Verify District” box. This will bring you up to a list of your representatives and your senator. Tic the box for each one you want to receive your comment.
- Enter your contact information.
- Enter your position regarding the bill (support, oppose or neutral)
- Enter your comment of up to 1000 characters in the comment box.
- Click send

Options 2 & 3 for communicating with Legislators

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- **2. Email your legislators directly** if your comment will be more than 1000 characters, you don't have a bill number, or you want to draw their attention to something else. Be sure to include specifics about what you want them to do. The email address will use the format:
 - *firstname.lastname@leg.wa.gov*
- **3. Prefer to comment by phone?** There are two ways to do this:
 - i. To find your legislator's office phone number, select Find My District from the homepage menu, enter your address, and click on the hyperlink for the legislator you wish to contact. This will take you to your legislator's details, including their office phone number.
 - ii. Call the Legislative Hotline: 1-800-562-6000 (**TTY for Hearing Impaired 800-833-6388**). You can record a brief message that will be electronically forwarded to your legislators. Be prepared to give you name and address. Interpreter services for many languages are available. The hotline is open 8 am to 7 pm M-F when the legislature is in session.
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- **Note: Email provides documentation and allows you to communicate directly with your representative or senator. Phone calls are often interactions with office staff and your comments may not be fully received.**

Three Ways to Participate in Committee Hearings

- All three ways begin on the homepage on the right, under Let Your Voice Be Heard and Participating in the Process.
- You can choose among the following options:
 - 1. Testify in a Virtual Hearing – **Comments by Wendy and Phyllis**
 - 2. Submit Written Testimony to a Committee
 - 3. Get Your Position (Pro or Con) on a Bill Noted for the Legislative Record

3 Ways

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- **Do this first! Note your position as ‘pro or con’ for the legislative record.** This only takes a minute and is important - committees count these. You can do this up to an hour before the start of the hearing.
- Go to <https://app.leg.wa.gov/csiremote> . Select House or Senate
- From the Committee box, select the Committee you want.
- From the Meeting box, select the meeting date/time.
- From the Agenda Item, select the bill #.
- Select type of testimony: “I would like my position noted for the legislative record.”
- You will be sent to another page.
 - Select Position: “Pro” or “Con”
 - Fill out your information - do not list PNNS as your organization
 - Submit Registration
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3 Ways

- **Submit written testimony.** You can submit written testimony up to 24 hours after the meeting time. [Check out this guide](#) for talking points and tips on what makes good written testimony.
- Follow above instructions through “select the bill #”
- Select type of testimony: “I would like to submit written testimony”.
- You will be sent to another page.
 - Fill out requested information
 - Write your testimony (limit 5000 characters)
 - Submit Testimony

Points for letters to representatives

- Use Glen, Boone AACN Position Papers and other articles available on PNNS website
- Test Security concerns
- NPs will refuse to test
- Decisions in WA could set a precedent and could be repeated across the country
- See TPO statement available on PNNS website

Supporting Literature

- Bilder, BBilder, RM, Postal, KS, Barisa, M, Aase, DM, Munro Cullum, C, Gilaspy, R, et al. (2020). InterOrganizational practice committee recommendations/guidance for teleneuropsychology (TeleNP) in response to the COVID-19 pandemic. *The Clinical Neuropsychologist*, 34,
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- Yantz, C.L. & McCaffrey, R.J. (2005). Effects of a supervisor’s observation on a memory test performance of the examinee: Third-party observer effect confirmed. *Journal of Forensic Neuropsychology*, 4, 27–38.
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About the Legislative Process

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- Overview of the Legislative Process in Washington State <https://leg.wa.gov/legislature/Pages/Overview.aspx>
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- Twenty Minute Webinar on Navigating the Legislature Webpage <https://leg.wa.gov/LIC/Documents/Videos/Web%201.mp4>
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- <https://www.cha.wa.gov/legislative-process> - from the WA State Commission on Hispanic Affairs.
-
- <https://capaa.wa.gov/the-washington-state-legislature/> - from the WA State Commission on Asian Pacific American Affairs.
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- Physician's Guide to State Legislation: Understanding the Process (not specific to Washington State)
- <https://www.acep.org/globalassets/sites/acep/media/advocacy/state-advocacy/tools/physiciansguidesec01.pdf>
- League of Women Voter's instructions for communicating with your legislature.

Getting Involved

- Join the Third Party Observer (TPO) Task Force
- tpogrp@gmail.com
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- Washington State Psychological Association – Legislative Action Center
- https://wspapsych.org/legislative_action_center.php
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- Washington State Legislature (Part 1) – Testifying in Committee Hearing
- <https://leg.wa.gov/LIC/Documents/EducationAndInformation/Testifying%20at%20Committee.pdf>
-
- Washington State Legislature (Part 2) – How to Testify in Committee
- <https://leg.wa.gov/LIC/Documents/EducationAndInformation/How%20to%20Testify%20in%20Committee%20Tri-Fold%20Brochure%202017.pdf>
-
- How To: Testify in a Virtual Committee Meeting in the Washington State Legislature
- https://leg.wa.gov/legislature/Documents/2020/HowToJoin_Senate.pdf
-