S T A T E O F N E W Y O R K

1751

2009-2010 Regular Sessions

I N A S S E M B L Y

January 9, 2009

Introduced by M. of A. GOTTFRIED -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to neuro-psychology technicians employed by psychologists

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The education law is amended by adding a new section 7603-a to read as follows:

S 7603-A. NEURO-PSYCHOLOGY TECHNICIANS EMPLOYED BY PSYCHOLOGISTS. 1. EMPLOYMENT OF NEURO-PSYCHOLOGY TECHNICIANS. (A) AN INDIVIDUAL MAY BE EMPLOYED AS A NEURO-PSYCHOLOGY TECHNICIAN BY A QUALIFIED PSYCHOLOGIST TO PROVIDE SUPPORTIVE SERVICES RELATING TO NEURO-PSYCHOLOGICAL TESTING. FOR THE PURPOSES OF THIS SECTION, A "QUALIFIED PSYCHOLOGIST" SHALL MEAN A PSYCHOLOGIST LICENSED UNDER THIS ARTICLE WHO HAS ADEQUATE EDUCATION, TRAINING, AND EXPERIENCE IN NEURO-PSYCHOLOGICAL TESTING AND WHO HAS ADEQUATE TRAINING, KNOWLEDGE AND SKILL TO SUPERVISE AND RENDER COMPETENTLY ANY NEURO-PSYCHOLOGICAL TEST WHICH AN EMPLOYED NEURO-PSYCHOLOGY TECHNICIAN UNDERTAKES. FOR THE PURPOSES OF THIS SECTION, "NEURO-PSYCHOLOGICAL TESTING" SHALL MEAN AN EVALUATION THE PRIMARY PURPOSE OF WHICH IS THE DIAGNOSIS OF NEURO-DEVELOPMENTAL, NEURO-DEGENERATIVE, AND ACQUIRED DISORDERS OF BRAIN FUNCTION, INTELLECTUAL COMPROMISE, COGNITIVE AND NEURO-BEHAVIORAL DYSFUNCTION THAT INVOLVE, BUT ARE NOT RESTRICTED TO, MEMORY DEFICITS, LANGUAGE DISORDERS, LEARNING DISABILITIES, PERVASIVE DEVELOPMENTAL DISORDERS, IMPAIRMENTS OF ORGANIZATION AND PLANNING, DIFFICULTY WITH COGNITION, AND PERCEPTUAL ABNORMALITIES, CONSISTING OF THE ADMINISTRATION OF STANDARDIZED TESTS THAT ARE RELIABLE AND VALID WITH RESPECT TO ASSESSING IMPAIRMENTS IN BRAIN FUNCTION.

(B) A NEURO-PSYCHOLOGY TECHNICIAN'S ACTIVITIES SHALL BE RESTRICTED TO THE ADMINISTRATION AND SCORING OF STANDARDIZED OBJECTIVE TESTS WHICH HAVE SPECIFIED MECHANICAL ADMINISTRATION PROCEDURES AND WHICH, AS PROVIDED IN THE TEST MANUAL OR OTHER MATERIALS PROMULGATED BY THE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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PUBLISHER, DO NOT REQUIRE OR PERMIT INTERPRETATION, QUERYING OF EXAMINEES ABOUT INDIVIDUAL ITEMS, OR OTHER JUDGMENTS. SPECIFICALLY EXCLUDED FROM THE SCOPE OF ACTIVITIES OF THE NEURO-PSYCHOLOGY TECHNICIAN ARE THE ADMINISTRATION AND SCORING OF INDIVIDUALLY ADMINISTERED INTELLIGENCE TESTS AND THE ADMINISTRATION AND SCORING OF PROJECTIVE TESTS AND TECHNIQUES. THE ROLE OF THE NEURO-PSYCHOLOGY TECHNICIAN IS STRICTLY LIMITED TO THE ADMINISTRATION AND SCORING OF TESTS THAT ARE SELECTED AND INTERPRETED BY THE QUALIFIED PSYCHOLOGIST, AND THE RESULTS OF WHICH ARE COMMUNICATED BY THE QUALIFIED PSYCHOLOGIST. TEST SELECTION, DATA ANALYSIS, INTERPRETATION AND COMMUNICATION OF RESULTS ARE PROFESSIONAL ACTIVITIES PERFORMED ONLY BY THE QUALIFIED PSYCHOLOGIST. EXCEPT FOR THE ADMINISTRATION AND SCORING OF SUCH TESTS AS PROVIDED FOR IN THIS PARAGRAPH, NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO ALLOW A NEURO-PSYCHOLOGY TECHNICIAN TO PROVIDE ANY OTHER SERVICE WHICH CONSTITUTES THE PRACTICE OF PSYCHOLOGY AS DEFINED IN THIS ARTICLE.

(C) THE QUALIFIED PSYCHOLOGIST SHALL HAVE SUFFICIENT FACE-TO-FACE CONTACT IN CONDUCTING PATIENT AND COLLATERAL INTERVIEWS, AND PERSONAL ADMINISTRATION OF THE TESTING PROCEDURES, SO THAT THE QUALIFIED PSYCHOLOGIST MAY FORMULATE DIAGNOSTIC AND/OR EVALUATIVE CONCLUSIONS. FOR NEURO-PSYCHOLOGICAL EVALUATIONS THAT FORM THE BASIS FOR SPECIAL EDUCATION ELIGIBILITY DETERMINATION, EDUCATIONAL PLACEMENT OR PLANNING, THE QUALIFIED PSYCHOLOGIST SHALL HAVE CONDUCTED SUFFICIENT OBSERVATION AND PERSONAL ADMINISTRATION OF ASSESSMENT MEASURES TO FORM DIAGNOSTIC CONCLUSIONS AND RECOMMENDATIONS INDEPENDENTLY OF THE DATA THAT IS OBTAINED BY THE TECHNICIAN. NEURO-PSYCHOLOGICAL TESTS SHALL NOT BE ADMINISTERED OR SCORED BY A NEURO-PSYCHOLOGY TECHNICIAN FOR ANY SCHOOL DISTRICT IN THIS STATE.

2. SUPERVISION OF NEURO-PSYCHOLOGY TECHNICIANS. (A) THE ADMINISTRATION AND SCORING OF NEURO-PSYCHOLOGICAL TESTS BY A NEURO-PSYCHOLOGY TECHNICIAN SHALL BE PERFORMED ONLY UNDER THE DIRECT SUPERVISION OF A QUALIFIED PSYCHOLOGIST. IN NO INSTANCE SHALL THE RATIO OF QUALIFIED PSYCHOLOGIST TO NEURO-PSYCHOLOGY TECHNICIAN EXCEED ONE TO THREE. THE QUALIFIED PSYCHOLOGIST SHALL BE ETHICALLY AND LEGALLY RESPONSIBLE FOR THE SELECTION AND INTERPRETATION OF NEURO-PSYCHOLOGICAL TESTS, THE PROFESSIONAL ACTIVITIES OF THE NEURO-PSYCHOLOGY TECHNICIAN AND FOR THE CARE AND TREATMENT OF THE PATIENT. PROVIDED FURTHER, A QUALIFIED PSYCHOLOGIST MAY NOT PERMIT A NEURO-PSYCHOLOGY TECHNICIAN TO ENGAGE IN ANY PRACTICE THAT CANNOT BE PERFORMED AND SUPERVISED COMPETENTLY BY SUCH QUALIFIED PSYCHOLOGIST. AT NO TIME SHALL A NEURO-PSYCHOLOGY TECHNICIAN ENGAGE IN THE SCOPE OF THEIR ACTIVITIES, AS PROVIDED FOR IN SUBDIVISION ONE OF THIS SECTION, WITHOUT THE DIRECT SUPERVISION OF A QUALIFIED PSYCHOLOGIST AS DEFINED IN SUBDIVISION ONE OF THIS SECTION. PROVIDED FURTHER, A QUALIFIED PSYCHOLOGIST SHALL INTERRUPT OR TERMINATE A NEURO-PSYCHOLOGY TECHNICIAN'S ACTIVITIES WHENEVER NECESSARY TO ENSURE PATIENT SAFETY AND SHALL PROVIDE TWENTY-FOUR HOUR AVAILABILITY TO THE NEURO-PSYCHOLOGY TECHNICIAN AND TO THE PATIENT WHO IS BEING TESTED BY SUCH NEURO-PSYCHOLOGY TECHNICIAN FOR EMERGENCY CONSULTATION AND INTERVENTION.

(B) THE EMPLOYING QUALIFIED PSYCHOLOGIST SHALL PROVIDE AN ACCEPTABLE WORK SETTING FOR A NEURO-PSYCHOLOGY TECHNICIAN THAT PROVIDES ONGOING NEURO-PSYCHOLOGICAL SERVICES OR SCIENTIFIC RESEARCH IN A WELL-DEFINED AND ESTABLISHED PROGRAM. SUCH WORK SETTING SHALL MEET THE BROAD AND SPECIALIZED NEEDS OF THE NEURO-PSYCHOLOGY TECHNICIAN THAT ARE CONGRUENT WITH THE NEURO-PSYCHOLOGY TECHNICIAN'S JOB DESCRIPTION. SUCH JOB DESCRIPTION SHALL BE DEVELOPED BY THE QUALIFIED PSYCHOLOGIST AT THE INCEPTION OF THE NEURO-PSYCHOLOGY TECHNICIAN'S EMPLOYMENT, AND SHALL BE A WRITTEN, INDIVIDUALIZED JOB DESCRIPTION THAT SPECIFIES THE ADMINISTRA-

TIVE POLICIES AND THE ROLES, GOALS, OBJECTIVES, AND LIMITS OF THE NEURO-PSYCHOLOGY TECHNICIAN'S POSITION AND THE REQUIREMENTS OF THE WORK SETTING.

3. EDUCATION. THE MINIMUM EDUCATION REQUIREMENTS FOR A NEURO-PSYCHOLOGY TECHNICIAN SHALL BE A BACCALAUREATE DEGREE WITH A MAJOR IN PSYCHOLOGY OR RELATED FIELD FROM A REGIONALLY ACCREDITED INSTITUTION WHICH SHALL INCLUDE THE SUCCESSFUL COMPLETION OF COURSEWORK IN:

(A) ABNORMAL PSYCHOLOGY;

(B) PERSONALITY;

(C) PSYCHOLOGICAL STATISTICS; AND

(D) PSYCHOLOGICAL TESTING OR THE THEORY AND PRINCIPLES OF PSYCHOLOGICAL ASSESSMENT.

4. CERTIFICATION. NEURO-PSYCHOLOGY TECHNICIANS SHALL BE CERTIFIED BY THE DEPARTMENT PURSUANT TO REGULATIONS DULY ADOPTED AND PROMULGATED BY THE COMMISSIONER.

5. ADDITIONAL TRAINING. THE QUALIFIED PSYCHOLOGIST SHALL PROVIDE ADDITIONAL TRAINING TO THE NEURO-PSYCHOLOGY TECHNICIAN WHICH SHALL INCLUDE:

(A) THE GOALS OF NEURO-PSYCHOLOGICAL EXAMINATION AND THE NEURO-PSYCHOLOGY TECHNICIAN'S ROLE IN ACHIEVING THOSE GOALS;

(B) TRAINING IN INSTITUTIONAL EMERGENCY PROCEDURES TO DEAL WITH VARIOUS PATIENT MEDICAL EMERGENCIES SUCH AS HEART ATTACK, RESPIRATORY ARREST, SEIZURES AND OTHER RELEVANT INFORMATION;

(C) TRAINING AND INFORMATION ON RECOMMENDED PROCEDURES FOR DEALING WITH INCOMPETENT OR ADJUDICATED PATIENTS WHO ATTEMPT TO LEAVE THE TESTING SETTING WITHOUT AUTHORIZATION;

(D) TRAINING THE NEURO-PSYCHOLOGY TECHNICIAN TO BE SENSITIVE TO SUBTLE OR OVERT SUICIDAL OR HOMICIDAL THREATS OR INNUENDOES MADE DURING TESTING;

(E) TRAINING ON HOW TO HANDLE AGGRESSIVE OR SEXUALLY EXPLICIT BEHAVIOR ON THE PART OF THE PATIENT;

(F) CLEARLY COMMUNICATING THE DELINEATION OF LINES OF AUTHORITY BETWEEN THE QUALIFIED PSYCHOLOGIST AND THE NEURO-PSYCHOLOGY TECHNICIAN AND MAKING SURE THAT THE NEURO-PSYCHOLOGY TECHNICIAN HAS AN EXPLICIT UNDERSTANDING OF THE LIMITED NATURE OF THE NEURO-PSYCHOLOGY TECHNICIAN'S ROLE IN NEURO-PSYCHOLOGICAL TESTING;

(G) EXPLICIT GUIDANCE AND TRAINING REGARDING ETHICAL ISSUES THAT PERTAIN TO THE ACTIVITIES OF A NEURO-PSYCHOLOGY TECHNICIAN IN NEURO-PSYCHOLOGICAL TESTING WHICH SHALL INCLUDE:

(I) PROTECTION OF PATIENT CONFIDENTIALITY;

(II) PROTECTION OF THE CONFIDENTIALITY OF TEST INFORMATION REGARDING PATIENTS;

(III) MAINTENANCE AND PROTECTION OF TEST SECURITY;

(IV) CONSTRAINTS REGARDING DUAL RELATIONSHIPS WITH PATIENTS OR SUPERVISORS;

(V) THE LIMITS OF THE NEURO-PSYCHOLOGY TECHNICIAN'S ROLE AND COMPETENCY; AND

(H) TRAINING IN THE ADMINISTRATION AND SCORING OF ESTABLISHED OBJECTIVE TESTS, INCLUDING ANY AMENDMENTS OR REVISIONS TO THE TESTS, AND IN THE ADMINISTRATION AND SCORING OF ANY TESTS WHICH ARE SUBSEQUENTLY ADDED OR INCLUDED IN THE BATTERY OF TESTS SELECTED BY THE QUALIFIED PSYCHOLOGIST TO BE ADMINISTERED AND SCORED BY THE NEURO-PSYCHOLOGY TECHNICIAN.

6. TRAINING QUALIFICATIONS. (A) THE QUALIFIED PSYCHOLOGIST MAY REQUIRE THAT ANY OF THE TRAINING TO WHICH REFERENCE IS MADE IN SUBDIVISION FIVE OF THIS SECTION BE CARRIED OUT IN A FORMAL OR STRUCTURED SETTING INCLUDING, WITHOUT LIMITATION, SPECIAL CLASSES AND ORGANIZED WORKSHOPS.

(B) WRITTEN DOCUMENTATION SHALL BE MAINTAINED BY THE QUALIFIED PSYCHOLOGIST DESCRIBING THE NATURE AND DURATION OF TRAINING OF THE NEURO-PSYCHOLOGY TECHNICIAN, AND WHICH INDICATES THAT THE NEURO-PSYCHOLOGY TECHNICIAN HAS SUCCESSFULLY COMPLETED THE TRAINING. SUCH DOCUMENTATION SHALL IDENTIFY THE SPECIFIC TESTS IN WHICH THE NEURO-PSYCHOLOGY TECHNICIAN HAS ATTAINED COMPETENCE IN ADMINISTRATION AND SCORING.

7. REGISTRATION. EACH QUALIFIED PSYCHOLOGIST WHO EMPLOYS A NEURO-PSYCHOLOGY TECHNICIAN SHALL REGISTER EACH TECHNICIAN WITH THE DEPARTMENT AND SUBMIT A STATEMENT OF SUPERVISION OUTLINING THE PROCESS USED TO SUPERVISE EVERY NEURO-PSYCHOLOGY TECHNICIAN UNDER THEIR EMPLOY.

8. DISCLOSURE. A QUALIFIED PSYCHOLOGIST WHO EMPLOYS A NEURO-PSYCHOLOGY TECHNICIAN OR TECHNICIANS SHALL PROVIDE WRITTEN DISCLOSURE CONCERNING THE LIMITED ROLE OF NEURO-PSYCHOLOGY TECHNICIANS TO PATIENTS, LEGAL GUARDIANS OF MINORS AND TO THIRD-PARTY PAYORS. REPORTS OF NEURO-PSYCHOLOGICAL TESTING SHALL CLEARLY INDICATE WHICH TESTS WERE ADMINISTERED AND SCORED BY THE NEURO-PSYCHOLOGY TECHNICIAN AND WHICH TESTS WERE ADMINISTERED AND SCORED BY THE QUALIFIED PSYCHOLOGIST.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.