

STATE OF NEW YORK

692--B

2017-2018 Regular Sessions

IN SENATE

January 4, 2017

Introduced by Sens. ORTT, CARLUCCI, GALLIVAN, RITCHIE -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law and the social services law, in relation to the practice of school psychology, and establishing a pilot program of multi-tiered system of support model of substance use prevention and intervention

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative intent and findings. The legislature finds that
2 while significant steps have been taken through legislation to implement
3 the recommendations of executive and legislative task forces in the
4 joint effort to combat the heroin and opioid crises in New York state,
5 much more must be done to identify risk factors, develop community
6 response and support strategies and to increase access to treatment.
7 The legislature intends to build on the initial aggressive efforts of
8 the executive and legislative by recognizing the significant role mental
9 and behavioral health professionals play in identifying the warning
10 signs of heroin and opioid addiction in our children and the maladaptive
11 behaviors that lead to early drug use and ultimately abuse and
12 addiction. The legislature recognizes that certified school psychol-
13 ogists are uniquely qualified to identify the risk and protective
14 factors, coupled with adverse childhood experiences which constitute the
15 drug abuse process. However, these highly trained specialists are
16 constrained to provide vital services to the school setting only. The
17 legislature finds that the state's mission to address the heroin and
18 opioid crises in the state will be advanced through the licensure of
19 school psychologists and the meaningful involvement of these trained

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

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1 practitioners in the development of a school and community based strate-
2 gy of response and support.

3 § 2. The education law is amended by adding a new article 166-A to
4 read as follows:

5 ARTICLE 166-A

6 SCHOOL PSYCHOLOGY

7 Section 8720. Introduction.

8 8721. Practice of school psychology and use of the title "school
9 psychologist".

10 8722. Definition of the practice of school psychology.

11 8723. Requirements for a professional license.

12 8724. Boundaries of professional competency.

13 8725. Limited permits.

14 8726. Exemptions.

15 8727. Special provisions.

16 § 8720. Introduction. This article applies to the profession and prac-
17 tice of school psychology and to the use of the title "licensed school
18 psychologist". The general provisions for all professions contained in
19 article one hundred thirty of this title apply to this article.

20 § 8721. Practice of school psychology and use of the title "school
21 psychologist". Only a person licensed or exempt under this article
22 shall practice school psychology or use the title "licensed school
23 psychologist".

24 § 8722. Definition of the practice of school psychology. The practice
25 of school psychology is:

26 1. the assessment, including psycho-educational, developmental and
27 vocational assessment, evaluation and interpretation of intelligence,
28 cognitive processes, aptitudes, interests, academic achievement,
29 adjustment, personality factors and motivations, or any other attri-
30 butes, to individuals or groups of individuals aged birth to twenty-one
31 years that relate to learning, education or adjustment needs;

32 2. the development and implementation of educationally-related
33 psychotherapeutic and behavioral approaches to increase school adjust-
34 ment and academic success, counseling and interpretive services to
35 reduce education-related problems including, but not limited to, verbal
36 interaction, interviewing, behavior techniques, developmental and voca-
37 tional intervention, environmental management and group processes;

38 3. consultation with representatives of schools, agencies and organ-
39 izations, families or individuals, including psycho-educational, devel-
40 opmental and vocational assistance or direct educational services,
41 related to learning problems and adjustments to those problems to the
42 benefit of an individual or group of individuals age birth to twenty-one
43 years; and

44 4. the development of programming, including designing, implementing
45 or evaluating educationally and psychologically sound learning environ-
46 ments and the facilitation of psycho-educational development of individ-
47 uals, families or groups.

48 § 8723. Requirements for a professional license. To qualify for a
49 license as a licensed school psychologist, an applicant shall fulfill
50 the following requirements:

51 1. Application: File an application with the department;

52 2. Education: Complete a minimum of sixty graduate credits and fulfill
53 the requirements of an advanced specialist degree or its equivalent or
54 doctoral degree in school psychology from a program registered by the
55 department, or determined by the department to be the substantial equiv-

1 alent in accordance with the commissioner's regulations. The graduate
2 coursework shall include, but not be limited to, the following areas:

- 3 (i) biological, social and cultural bases of development;
4 (ii) psychopathology and exceptionality in learning and behavior;
5 (iii) assessment and appraisal of learners in home and school
6 contexts;
7 (iv) consultation and collaboration in family, school and community
8 systems;
9 (v) effective instruction and development of cognitive and academic
10 skills;
11 (vi) prevention and treatment of behavioral and emotional disorders
12 and deficits;
13 (vii) school organization, curriculum, policy and law;
14 (viii) research and program evaluation;
15 (ix) profession and ethical practice of psychology in schools; and
16 (x) completion of a twelve hundred hour supervised internship in
17 school psychology, with no less than six hundred hours completed within
18 a school setting.

19 3. Experience: Complete a minimum of two thousand four hundred hours
20 of post-master's supervised experience relevant to the practice of
21 school psychology satisfactory to the board and in accordance with the
22 commissioner's regulations, such supervised experience which may include
23 one thousand two hundred hours completed as part of a program in school
24 psychology. Satisfactory experience obtained in an entity operating
25 under a waiver issued by the department pursuant to section sixty-five
26 hundred three-a of this title may be accepted by the department,
27 notwithstanding that such experience may have been obtained prior to the
28 effective date of such section sixty-five hundred three-a and/or prior
29 to the entity having obtained a waiver. The department may, for good
30 cause shown, accept satisfactory experience that was obtained in a
31 setting that would have been eligible for a waiver but which has not
32 obtained a waiver from the department or experience that was obtained in
33 good faith by the applicant under the belief that appropriate authori-
34 zation had been obtained for the experience, provided that such experi-
35 ence meets all other requirements for acceptable experience;

36 4. Examination: Pass an examination satisfactory to the board and in
37 accordance with the commissioner's regulations;

38 5. Age: Be at least twenty-one years of age;

39 6. Character: Be of good moral character as determined by the depart-
40 ment; and

41 7. Fees: Pay a fee of one hundred seventy-five dollars to the depart-
42 ment for admission to a department conducted examination and for an
43 initial license and a fee of one hundred seventy dollars for each trien-
44 nal registration period.

45 § 8724. Boundaries of professional competency. 1. It shall be deemed
46 practicing outside the boundaries of his or her professional competence
47 for a person licensed pursuant to this article, in the case of treatment
48 of any serious mental illness, to provide any mental health services
49 for such illness on a continuous and sustained basis without a medical
50 evaluation of the illness by, and consultation with, a physician regard-
51 ing such illness. Such medical evaluation and consultation shall be to
52 determine and advise whether any medical care is indicated for such
53 illness. For purposes of this section, "serious mental illness" means
54 schizophrenia, schizoaffective disorder, bipolar disorder, major
55 depressive disorder, panic disorder and obsessive-compulsive disorder.
56 Nothing in this section shall be construed to prevent, limit or impair

1 consultation with any other health or mental health professional. Noth-
2 ing herein contained shall limit, modify, restrict or otherwise affect
3 the definition of the practice of school psychology as provided in
4 section eighty-seven hundred twenty-two of this article.

5 2. Any individual whose license or authority to practice derives from
6 the provisions of this article shall be prohibited from:

7 (a) prescribing or administering drugs as defined in this chapter as a
8 treatment, therapy, or professional service in the practice of his or
9 her profession; or

10 (b) using invasive procedures as a treatment, therapy, or professional
11 service in the practice of his or her profession. For purposes of this
12 subdivision, "invasive procedure" means any procedure in which human
13 tissue is cut, altered, or otherwise infiltrated by mechanical or other
14 means. Invasive procedure includes surgery, lasers, ionizing radiation,
15 therapeutic ultrasound, or electroconvulsive therapy; or

16 (c) engaging in dual setting practice, or otherwise offering or
17 providing private practice services to a student of a school or special
18 education program where the practitioner is currently employed or under
19 contract with such school or program.

20 3. Nothing in this article shall be deemed to authorize, grant or
21 extend hospital privileges to individuals licensed under this article.

22 § 8725. Limited permits. 1. The department may issue a limited permit
23 to an applicant whose qualifications have been approved for admission to
24 the examination in accordance with regulations promulgated therefor.

25 2. Limited permits shall be for one year and be renewed, at the
26 discretion of the department, for one additional year.

27 3. The fee for each limited permit and for each renewal shall be
28 seventy dollars.

29 § 8726. Exemptions. Nothing contained in this article shall be
30 construed to:

31 1. apply to the practice, conduct, activities, services or use of any
32 title by any person licensed or otherwise authorized to practice medi-
33 cine within the state pursuant to article one hundred thirty-one of this
34 title or by any person registered to perform services as a physician
35 assistant within the state pursuant to article one hundred thirty-one-B
36 of this title or by any person licensed or otherwise authorized to prac-
37 tice psychology within this state pursuant to article one hundred
38 fifty-three of this title or by any person licensed or otherwise author-
39 ized to practice as a licensed clinical social worker within this state
40 pursuant to article one hundred fifty-four of this title, or by any
41 person licensed or otherwise authorized to practice nursing as a regis-
42 tered professional nurse within this state pursuant to article one
43 hundred thirty-nine of this title, or by any person licensed or other-
44 wise authorized to practice mental health counseling, marriage and fami-
45 ly therapy, creative arts therapy, or psychoanalysis within the state,
46 or by any person licensed or otherwise authorized to practice applied
47 behavior analysis within the state pursuant to this article; provided,
48 however, that no physician, physician's assistant, registered profes-
49 sional nurse, psychologist, licensed clinical social worker, licensed
50 mental health counselor, licensed marriage and family therapist,
51 licensed creative arts therapist, licensed psychoanalyst or applied
52 behavior analyst may use the title unless licensed under this article;

53 2. prohibit or limit any individual who is credentialed under any law,
54 including attorneys, rape crisis counselors, certified alcoholism coun-
55 selors and certified substance abuse counselors from providing mental
56 health services within their respective established authorities;

1 3. prohibit or limit the practice of a profession licensed pursuant
2 to this article by a student, intern or resident in, and as a part of, a
3 supervised educational program in an institution approved by the depart-
4 ment;

5 4. prohibit or limit the provision of pastoral counseling services by
6 any member of the clergy or Christian Science practitioner, within the
7 context of his or her ministerial charge or obligation;

8 5. prohibit or limit individuals, churches, schools, teachers, organ-
9 izations, or not-for-profit businesses, from providing instruction,
10 advice, support, encouragement, or information to individuals, families,
11 and relational groups;

12 6. prohibit or limit an occupational therapist from performing work
13 consistent with article one hundred fifty-six of this title; or

14 7. affect or prevent the activities or services on the part of a
15 person in the employ of a federal, state, county, or municipal agency,
16 other political subdivision, or a chartered elementary or secondary
17 school or degree-granting educational institution insofar as such activ-
18 ities and services are a part of the duties of such person's salaried
19 position.

20 § 8727. Special provisions. 1. Any nonexempt person practicing the
21 profession of school psychology shall apply for a license of such
22 profession within one year of the effective date of this section.

23 (a) If such person does not meet the requirements for a license estab-
24 lished within this article, such person may meet alternative criteria
25 determined by the department to be the substantial equivalent of such
26 criteria.

27 (b) If such person meets the requirements for a license established
28 within this article, except for examination, and has been certified or
29 registered by a national certifying or registering body having certif-
30 ication or registration standards acceptable to the commissioner, the
31 department shall license without examination.

32 2. Notwithstanding the requirements of section eighty-seven hundred
33 twenty-three of this article, and for a period of time not to exceed two
34 years from the effective date of this article, an individual may be
35 licensed as a school psychologist provided such person has either:

36 (a) met the educational requirements as defined in section eighty-sev-
37 en hundred twenty-three of this article and performed the duties of a
38 school psychologist for two of the past five years prior to the effec-
39 tive date of this article; or

40 (b) performed the duties of a school psychologist for at least five
41 years prior to the effective date of this article.

42 3. Any person licensed pursuant to this article may use accepted codes
43 and classifications of signs, symptoms, dysfunctions and disorders, as
44 approved in accordance with regulations promulgated by the department,
45 in the practice of such licensed profession.

46 4. Nothing in this article shall be deemed to alter, modify or affect
47 the provisions of section three thousand twelve or twenty-five hundred
48 ten of this chapter or otherwise affect the certification of a school
49 psychologist.

50 § 3. Paragraph a of subdivision 3 of section 6507 of the education
51 law, as amended by chapter 554 of the laws of 2013, is amended to read
52 as follows:

53 a. Establish standards for preprofessional and professional education,
54 experience and licensing examinations as required to implement the arti-
55 cle for each profession. Notwithstanding any other provision of law, the
56 commissioner shall establish standards requiring that all persons apply-

ing, on or after January first, nineteen hundred ninety-one, initially, or for the renewal of, a license, registration or limited permit to be a physician, chiropractor, dentist, registered nurse, podiatrist, optometrist, psychiatrist, psychologist, licensed school psychologist, licensed master social worker, licensed clinical social worker, licensed creative arts therapist, licensed marriage and family therapist, licensed mental health counselor, licensed psychoanalyst, dental hygienist, licensed behavior analyst, or certified behavior analyst assistant shall, in addition to all the other licensure, certification or permit requirements, have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Such coursework or training may also include information regarding the physical and behavioral indicators of the abuse of individuals with mental retardation and other developmental disabilities and voluntary reporting of abused or neglected adults to the office of mental retardation and developmental disabilities or the local adult protective services unit. Each applicant shall provide the department with documentation showing that he or she has completed the required training. The department shall provide an exemption from the child abuse and maltreatment training requirements to any applicant who requests such an exemption and who shows, to the department's satisfaction, that there would be no need because of the nature of his or her practice for him or her to complete such training;

§ 4. Section 7602 of the education law, as added by chapter 987 of the laws of 1971, is amended to read as follows:

§ 7602. State board for psychology. A state board for psychology shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than eleven ~~psychologists licensed in this state~~ members, a number of whom shall be licensed school psychologists sufficient to assure meaningful participation in board activities. An executive secretary to the board shall be appointed by the board of regents upon the recommendation of the commissioner and shall be a psychologist, licensed in this state.

§ 5. Paragraph (a) of subdivision 1 of section 413 of the social services law, as separately amended by chapters 126 and 205 of the laws of 2014, is amended to read as follows:

(a) The following persons and officials are required to report or cause a report to be made in accordance with this title when they have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child, or when they have reasonable cause to suspect that a child is an abused or maltreated child where the parent, guardian, custodian or other person legally responsible for such child comes before them in their professional or official capacity and states from personal knowledge facts,

1 conditions or circumstances which, if correct, would render the child an
2 abused or maltreated child: any physician; registered physician assist-
3 ant; surgeon; medical examiner; coroner; dentist; dental hygienist;
4 osteopath; optometrist; chiropractor; podiatrist; resident; intern;
5 psychologist; licensed school psychologist; registered nurse; social
6 worker; emergency medical technician; licensed creative arts therapist;
7 licensed marriage and family therapist; licensed mental health counse-
8 lor; licensed psychoanalyst; licensed behavior analyst; certified behav-
9 ior analyst assistant; hospital personnel engaged in the admission,
10 examination, care or treatment of persons; a Christian Science practi-
11 tioner; school official, which includes but is not limited to school
12 teacher, school guidance counselor, school psychologist, school social
13 worker, school nurse, school administrator or other school personnel
14 required to hold a teaching or administrative license or certificate;
15 full or part-time compensated school employee required to hold a tempo-
16 rary coaching license or professional coaching certificate; social
17 services worker; director of a children's overnight camp, summer day
18 camp or traveling summer day camp, as such camps are defined in section
19 thirteen hundred ninety-two of the public health law; day care center
20 worker; school-age child care worker; provider of family or group family
21 day care; employee or volunteer in a residential care facility for chil-
22 dren that is licensed, certified or operated by the office of children
23 and family services; or any other child care or foster care worker;
24 mental health professional; substance abuse counselor; alcoholism coun-
25 selor; all persons credentialed by the office of alcoholism and
26 substance abuse services; peace officer; police officer; district attor-
27 ney or assistant district attorney; investigator employed in the office
28 of a district attorney; or other law enforcement official.

29 § 6. The education department, the office of children and family
30 services, the office of mental health and the office of alcoholism and
31 substance abuse services are hereby directed to establish a multi-tiered
32 system of support (MTSS) model of substance use prevention and inter-
33 vention utilizing tiered levels of primary prevention services and
34 secondary and tertiary intervention services and to pilot such model in
35 communities with occurrences of heroin and opioid addiction in children
36 under the age of twenty-one in New York state. Such model shall be
37 designed with the meaningful participation of mental and behavioral
38 health practitioners whose training focuses on the needs of children
39 under the age of twenty-one including, but not limited to, school
40 psychologists, such practitioners being uniquely qualified to implement
41 the model to the fullest extent possible. Such pilot shall be designed
42 for implementation by September 1, 2017.

43 § 7. Subparagraph (i) of paragraph a of subdivision 1 of section
44 6503-a of the education law, as amended by chapter 554 of the laws of
45 2013, is amended to read as follows:

46 (i) services provided under article one hundred fifty-four, one
47 hundred sixty-three ~~[ex]~~, one hundred sixty-seven or one hundred sixty-
48 six-A of this title for which licensure would be required, or

49 § 8. Severability. If any clause, sentence, paragraph, section or part
50 of this act shall be adjudged by any court of competent jurisdiction to
51 be invalid, the judgment shall not affect, impair, or invalidate the
52 remainder thereof, but shall be confined in its operation to the clause,
53 sentence, paragraph, section or part thereof directly involved in the
54 controversy in which the judgment shall have been rendered.

55 § 9. This act shall take effect twelve months after it shall have
56 become a law; provided, however, that effective immediately the depart-

1 ment of education is authorized to promulgate any and all rules and
2 regulations and take any other measure necessary to implement this act
3 on or before its effective date, including, but not limited to, the
4 appointment of the state board for psychology, the acceptance and proc-
5 essing of applications for licensure and the issuance of licenses; and
6 provided, further, that the provisions of article 166-A of the education
7 law, as added by section two of this act, requiring a license or limited
8 permit to practice under such article shall not be enforced until twen-
9 ty-four months after the effective date of this act.