

STATE OF NEW YORK

1132

2017-2018 Regular Sessions

IN ASSEMBLY

January 10, 2017

Introduced by M. of A. ROSENTHAL, M. G. MILLER, OTIS, SKOUFIS, STIRPE, CUSICK, ABINANTI, JAFFEE, BENEDETTO, FAHY, ZEBROWSKI -- Multi-Sponsored by -- M. of A. BRAUNSTEIN, BUCHWALD, GALEF, LALOR, LUPARDO, MAYER, McDONOUGH, MONTESANO, PAULIN, SKARTADOS, WOERNER -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law and the social services law, in relation to the practice of school psychology

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

1 Section 1. The education law is amended by adding a new article 166-A
2 to read as follows:

3 ARTICLE 166-A

4 SCHOOL PSYCHOLOGY

5 Section 8720. Introduction.

6 8721. Practice of school psychology and use of the title "school
7 psychologist".

8 8722. Definition of the practice of school psychology.

9 8723. Requirements for a professional license.

10 8724. Boundaries of professional competency.

11 8725. Limited permits.

12 8726. Exemptions.

13 8727. Special provisions.

14 § 8720. Introduction. This article applies to the profession and prac-
15 tice of school psychology and to the use of the title "licensed school
16 psychologist". The general provisions for all professions contained in
17 article one hundred thirty of this title apply to this article.

18 § 8721. Practice of school psychology and use of the title "school
19 psychologist". Only a person licensed or exempt under this article
20 shall practice school psychology or use the title "licensed school
21 psychologist".

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

LBD04588-01-7

1 § 8722. Definition of the practice of school psychology. The practice
2 of school psychology is:

3 1. the assessment, including psycho-educational, developmental and
4 vocational assessment, evaluation and interpretation of intelligence,
5 cognitive processes, aptitudes, interests, academic achievement,
6 adjustment, personality factors and motivations, or any other attri-
7 butes, to individual students or groups of students that relate to
8 learning, education or adjustment needs;

9 2. the development and implementation of educationally-related
10 psychotherapeutic and behavioral approaches to increase school adjust-
11 ment and academic success, counseling and interpretive services to
12 reduce education-related problems including, but not limited to, verbal
13 interaction, interviewing, behavior techniques, developmental and voca-
14 tional intervention, environmental management and group processes;

15 3. consultation with representatives of schools, agencies and organ-
16 izations, families or individuals, including psycho-educational, devel-
17 opmental and vocational assistance or direct educational services,
18 related to learning problems and adjustments to those problems to the
19 benefit of an individual student or group of students; and

20 4. the development of programming, including designing, implementing
21 or evaluating educationally and psychologically sound learning environ-
22 ments and the facilitation of psycho-educational development of individ-
23 uals, families or groups.

24 § 8723. Requirements for a professional license. To qualify for a
25 license as a licensed school psychologist, an applicant shall fulfill
26 the following requirements:

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

28 2. Education: Complete a minimum of sixty graduate credits and fulfill
29 the requirements of a master's or doctoral degree in school psychology
30 from a program registered by the department, or determined by the
31 department to be the substantial equivalent in accordance with the
32 commissioner's regulations. The graduate coursework shall include, but
33 not be limited to, the following areas:

34 (i) biological, social and cultural bases of development;

35 (ii) psychopathology and exceptionality in learning and behavior;

36 (iii) assessment and appraisal of learners in home and school
37 contexts;

38 (iv) consultation and collaboration in family, school and community
39 systems;

40 (v) effective instruction and development of cognitive and academic
41 skills;

42 (vi) prevention and treatment of behavioral and emotional disorders
43 and deficits;

44 (vii) school organization, curriculum, policy and law;

45 (viii) research and program evaluation;

46 (ix) profession and ethical practice of psychology in schools; and

47 (x) completion of a twelve hundred hour supervised internship in
48 school psychology, with no less than six hundred hours completed within
49 a school setting.

50 3. Experience: Complete a minimum of two thousand four hundred hours
51 of post-master's supervised experience relevant to the practice of
52 school psychology satisfactory to the board and in accordance with the
53 commissioner's regulations, such supervised experience which may include
54 one thousand two hundred hours completed as part of a program in school
55 psychology;

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

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

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

6 7. Fees: Pay a fee of two hundred forty dollars to the department for
7 admission to a department conducted examination and for an initial
8 license; a fee of eighty-five dollars for each reexamination; a fee of
9 one hundred seventy-five dollars for an initial license for persons not
10 requiring admission to a department conducted examination and a fee of
11 one hundred seventy dollars for each triennial registration period.

12 § 8724. Boundaries of professional competency. 1. It shall be deemed
13 practicing outside the boundaries of his or her professional competence
14 for a person licensed pursuant to this article, in the case of treatment
15 of any serious mental illness, to provide any mental health services
16 for such illness on a continuous and sustained basis without a medical
17 evaluation of the illness by, and consultation with, a physician regard-
18 ing such illness. Such medical evaluation and consultation shall be to
19 determine and advise whether any medical care is indicated for such
20 illness. For purposes of this section, "serious mental illness" means
21 schizophrenia, schizoaffective disorder, bipolar disorder, major
22 depressive disorder, panic disorder and obsessive-compulsive disorder.
23 Nothing in this section shall be construed to prevent, limit or impair
24 consultation with any other health or mental health professional. Noth-
25 ing herein contained shall limit, modify, restrict or otherwise affect
26 the definition of the practice of school psychology as provided in
27 section eighty-seven hundred twenty-two of this article.

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

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

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

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

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

45 § 8725. Limited permits. 1. The department may issue a limited permit
46 to an applicant whose qualifications have been approved for admission to
47 the examination in accordance with regulations promulgated therefor.

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

50 3. The fee for each limited permit and for each renewal shall be
51 seventy dollars.

52 § 8726. Exemptions. Nothing contained in this article shall be
53 construed to:

54 1. apply to the practice, conduct, activities, services or use of any
55 title by any person licensed or otherwise authorized to practice medi-
56 cine within the state pursuant to article one hundred thirty-one of this

1 title or by any person registered to perform services as a physician
2 assistant within the state pursuant to article one hundred thirty-one-B
3 of this title or by any person licensed or otherwise authorized to prac-
4 tice psychology within this state pursuant to article one hundred
5 fifty-three of this title or by any person licensed or otherwise author-
6 ized to practice as a licensed clinical social worker within this state
7 pursuant to article one hundred fifty-four of this title, or by any
8 person licensed or otherwise authorized to practice nursing as a regis-
9 tered professional nurse within this state pursuant to article one
10 hundred thirty-nine of this title, or by any person licensed or other-
11 wise authorized to practice mental health counseling, marriage and fami-
12 ly therapy, creative arts therapy, or psychoanalysis within the state,
13 or by any person licensed or otherwise authorized to practice applied
14 behavior analysis within the state pursuant to article one hundred
15 sixty-six-a of this title; provided, however, that no physician, physi-
16 cian's assistant, registered professional nurse, psychologist, licensed
17 clinical social worker, licensed mental health counselor, licensed
18 marriage and family therapist, licensed creative arts therapist,
19 licensed psychoanalyst or applied behavior analyst may use the title
20 unless licensed under this article;

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

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

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

32 5. prohibit or limit individuals, churches, schools, teachers, organ-
33 izations, or not-for-profit businesses, from providing instruction,
34 advice, support, encouragement, or information to individuals, families,
35 and relational groups;

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

38 7. affect or prevent the activities or services on the part of a
39 person in the employ of a federal, state, county, or municipal agency,
40 other political subdivision, or a chartered elementary or secondary
41 school or degree-granting educational institution insofar as such activ-
42 ities and services are a part of the duties of such person's salaried
43 position.

44 § 8727. Special provisions. 1. Any nonexempt person practicing the
45 profession of school psychology shall apply for a license of such
46 profession within one year of the effective date of this section.

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

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

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

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

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

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

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

19 § 2. Paragraph a of subdivision 3 of section 6507 of the education
20 law, as amended by chapter 554 of the laws of 2013, is amended to read
21 as follows:

22 a. Establish standards for preprofessional and professional education,
23 experience and licensing examinations as required to implement the arti-
24 cle for each profession. Notwithstanding any other provision of law, the
25 commissioner shall establish standards requiring that all persons apply-
26 ing, on or after January first, nineteen hundred ninety-one, initially,
27 or for the renewal of, a license, registration or limited permit to be a
28 physician, chiropractor, dentist, registered nurse, podiatrist, optome-
29 trist, psychiatrist, psychologist, licensed school psychologist,
30 licensed master social worker, licensed clinical social worker, licensed
31 creative arts therapist, licensed marriage and family therapist,
32 licensed mental health counselor, licensed psychoanalyst, dental hygien-
33 ist, licensed behavior analyst, or certified behavior analyst assistant
34 shall, in addition to all the other licensure, certification or permit
35 requirements, have completed two hours of coursework or training regard-
36 ing the identification and reporting of child abuse and maltreatment.
37 The coursework or training shall be obtained from an institution or
38 provider which has been approved by the department to provide such
39 coursework or training. The coursework or training shall include infor-
40 mation regarding the physical and behavioral indicators of child abuse
41 and maltreatment and the statutory reporting requirements set out in
42 sections four hundred thirteen through four hundred twenty of the social
43 services law, including but not limited to, when and how a report must
44 be made, what other actions the reporter is mandated or authorized to
45 take, the legal protections afforded reporters, and the consequences for
46 failing to report. Such coursework or training may also include informa-
47 tion regarding the physical and behavioral indicators of the abuse of
48 individuals with mental retardation and other developmental disabilities
49 and voluntary reporting of abused or neglected adults to the office of
50 mental retardation and developmental disabilities or the local adult
51 protective services unit. Each applicant shall provide the department
52 with documentation showing that he or she has completed the required
53 training. The department shall provide an exemption from the child abuse
54 and maltreatment training requirements to any applicant who requests
55 such an exemption and who shows, to the department's satisfaction, that

1 there would be no need because of the nature of his or her practice for
2 him or her to complete such training;

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

6 (a) The following persons and officials are required to report or
7 cause a report to be made in accordance with this title when they have
8 reasonable cause to suspect that a child coming before them in their
9 professional or official capacity is an abused or maltreated child, or
10 when they have reasonable cause to suspect that a child is an abused or
11 maltreated child where the parent, guardian, custodian or other person
12 legally responsible for such child comes before them in their profes-
13 sional or official capacity and states from personal knowledge facts,
14 conditions or circumstances which, if correct, would render the child an
15 abused or maltreated child: any physician; registered physician assist-
16 ant; surgeon; medical examiner; coroner; dentist; dental hygienist;
17 osteopath; optometrist; chiropractor; podiatrist; resident; intern;
18 psychologist; school psychologist; registered nurse; social worker;
19 emergency medical technician; licensed creative arts therapist; licensed
20 marriage and family therapist; licensed mental health counselor;
21 licensed psychoanalyst; licensed behavior analyst; certified behavior
22 analyst assistant; hospital personnel engaged in the admission, examina-
23 tion, care or treatment of persons; a Christian Science practitioner;
24 school official, which includes but is not limited to school teacher,
25 school guidance counselor, school psychologist, school social worker,
26 school nurse, school administrator or other school personnel required to
27 hold a teaching or administrative license or certificate; full or part-
28 time compensated school employee required to hold a temporary coaching
29 license or professional coaching certificate; social services worker;
30 director of a children's overnight camp, summer day camp or traveling
31 summer day camp, as such camps are defined in section thirteen hundred
32 ninety-two of the public health law; day care center worker; school-age
33 child care worker; provider of family or group family day care; employee
34 or volunteer in a residential care facility for children that is
35 licensed, certified or operated by the office of children and family
36 services; or any other child care or foster care worker; mental health
37 professional; substance abuse counselor; alcoholism counselor; all
38 persons credentialed by the office of alcoholism and substance abuse
39 services; peace officer; police officer; district attorney or assistant
40 district attorney; investigator employed in the office of a district
41 attorney; or other law enforcement official.

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

44 § 7602. State board for psychology. A state board for psychology
45 shall be appointed by the board of regents on recommendation of the
46 commissioner for the purpose of assisting the board of regents and the
47 department on matters of professional licensing and professional conduct
48 in accordance with section sixty-five hundred eight of this title. The
49 board shall be composed of not less than eleven [~~psychologists licensed~~
50 ~~in this state~~] members, a number of whom shall be licensed school
51 psychologists sufficient to assure meaningful participation in board
52 activities. An executive secretary to the board shall be appointed by
53 the board of regents upon the recommendation of the commissioner and
54 shall be a psychologist, licensed in this state.

55 § 5. Severability. If any clause, sentence, paragraph, section or part
56 of this act shall be adjudged by any court of competent jurisdiction to

1 be invalid, the judgment shall not affect, impair, or invalidate the
2 remainder thereof, but shall be confined in its operation to the clause,
3 sentence, paragraph, section or part thereof directly involved in the
4 controversy in which the judgment shall have been rendered.

5 § 6. This act shall take effect twelve months after it shall have
6 become a law; provided, however, that effective immediately the depart-
7 ment of education is authorized to promulgate any and all rules and
8 regulations and take any other measure necessary to implement this act
9 on or before its effective date, including, but not limited to, the
10 appointment of the state board for psychology, the acceptance and proc-
11 essing of applications for licensure and the issuance of licenses;
12 provided, further, that the provisions of article 166-A of the education
13 law, as added by section one of this act, requiring a license or limited
14 permit to practice under such article shall not be enforced until twen-
15 ty-four months after the effective date of this act.