

STATE OF NEW YORK

1132--A

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 -- 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

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 article 166-A to read as follows:

ARTICLE 166-A SCHOOL PSYCHOLOGY

Section 8720. Introduction.

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

8722. Definition of the practice of school psychology.

8723. Requirements for a professional license.

8724. Boundaries of professional competency.

8725. Limited permits.

8726. Exemptions.

8727. Special provisions.

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

§ 8721. Practice of school psychology and use of the title "school psychologist". Only a person licensed or exempt under this article

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

LBD04588-04-7

1 shall practice school psychology or use the title "licensed school
2 psychologist".

3 § 8722. Definition of the practice of school psychology. The practice
4 of school psychology is:

5 1. the assessment, including psycho-educational, developmental and
6 vocational assessment, evaluation and interpretation of intelligence,
7 cognitive processes, aptitudes, interests, academic achievement,
8 adjustment, personality factors and motivations, or any other attri-
9 butes, to individuals or groups of individuals aged birth to twenty-one
10 years that relate to learning, education or adjustment needs;

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

17 3. consultation with representatives of schools, agencies and organ-
18 izations, families or individuals, including psycho-educational, devel-
19 opmental and vocational assistance or direct educational services,
20 related to learning problems and adjustments to those problems to the
21 benefit of an individual or group of individuals age birth to twenty-one
22 years; and

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

27 § 8723. Requirements for a professional license. To qualify for a
28 license as a licensed school psychologist, an applicant shall fulfill
29 the following requirements:

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

31 2. Education: Complete a minimum of sixty graduate credits and fulfill
32 the requirements of an advanced specialist degree or its equivalent or
33 doctoral degree in school psychology from a program registered by the
34 department, or determined by the department to be the substantial equiv-
35 alent in accordance with the commissioner's regulations. The graduate
36 coursework shall include, but not be limited to, the following areas:

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

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

39 (iii) assessment and appraisal of learners in home and school
40 contexts;

41 (iv) consultation and collaboration in family, school and community
42 systems;

43 (v) effective instruction and development of cognitive and academic
44 skills;

45 (vi) prevention and treatment of behavioral and emotional disorders
46 and deficits;

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

48 (viii) research and program evaluation;

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

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

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

1 one thousand two hundred hours completed as part of a program in school
2 psychology;

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

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

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

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

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

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

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

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

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

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

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

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

52 3. The fee for each limited permit and for each renewal shall be
53 seventy dollars.

54 § 8726. Exemptions. Nothing contained in this article shall be
55 construed to:

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

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

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

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

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

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

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

47 § 8727. Special provisions. 1. Any nonexempt person practicing the
48 profession of school psychology shall apply for a license of such
49 profession within one year of the effective date of this section.

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

54 (b) If such person meets the requirements for a license established
55 within this article, except for examination, and has been certified or
56 registered by a national certifying or registering body having certif-

1 ication or registration standards acceptable to the commissioner, the
2 department shall license without examination.

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

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

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

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

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

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

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

1 such an exemption and who shows, to the department's satisfaction, that
2 there would be no need because of the nature of his or her practice for
3 him or her to complete such training;

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

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

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

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

1 § 5. Severability. If any clause, sentence, paragraph, section or part
2 of this act shall be adjudged by any court of competent jurisdiction to
3 be invalid, the judgment shall not affect, impair, or invalidate the
4 remainder thereof, but shall be confined in its operation to the clause,
5 sentence, paragraph, section or part thereof directly involved in the
6 controversy in which the judgment shall have been rendered.

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