

STATE OF NEW YORK

1132--C

2017-2018 Regular Sessions

IN ASSEMBLY

January 10, 2017

Introduced by M. of A. L. ROSENTHAL, M. G. MILLER, OTIS, SKOUFIS, STIRPE, CUSICK, ABINANTI, 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 -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- 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

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

LBD04588-13-8

1 drug abuse process. However, these highly trained specialists are
2 constrained to provide vital services to the school setting only. The
3 legislature finds that the state's mission to address the heroin and
4 opioid crises in the state will be advanced through the licensure of
5 school psychologists and the meaningful involvement of these trained
6 practitioners in the development of a school and community based strate-
7 gy of response and support.

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

10 ARTICLE 166-A
11 SCHOOL PSYCHOLOGY

12 Section 8720. Introduction.

13 8721. Practice of school psychology and use of the title "school
14 psychologist".

15 8722. Definition of the practice of school psychology.

16 8723. Requirements for a professional license.

17 8724. Boundaries of professional competency.

18 8725. Limited permits.

19 8726. Exemptions.

20 8727. Special provisions.

21 § 8720. Introduction. This article applies to the profession and prac-
22 tice of school psychology and to the use of the title "licensed school
23 psychologist". The general provisions for all professions contained in
24 article one hundred thirty of this title apply to this article.

25 § 8721. Practice of school psychology and use of the title "school
26 psychologist". Only a person licensed or exempt under this article
27 shall practice school psychology or use the title "licensed school
28 psychologist".

29 § 8722. Definition of the practice of school psychology. The practice
30 of school psychology is:

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

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

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

49 4. the development of programming, including designing, implementing
50 or evaluating educationally and psychologically sound learning environ-
51 ments and the facilitation of psycho-educational development of individ-
52 uals, families or groups.

53 § 8723. Requirements for a professional license. To qualify for a
54 license as a licensed school psychologist, an applicant shall fulfill
55 the following requirements:

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

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

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

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

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

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

6. Character: Be of good moral character as determined by the department; and

7. Fees: Pay a fee of one hundred seventy-five dollars to the department for admission to a department conducted examination and for an initial license and a fee of one hundred seventy dollars for each triennial registration period.

§ 8724. Boundaries of professional competency. 1. It shall be deemed practicing outside the boundaries of his or her professional competence for a person licensed pursuant to this article, in the case of treatment of any serious mental illness, to provide any mental health services for such illness on a continuous and sustained basis without a medical evaluation of the illness by, and consultation with, a physician regarding such illness. Such medical evaluation and consultation shall be to determine and advise whether any medical care is indicated for such

1 illness. For purposes of this section, "serious mental illness" means
2 schizophrenia, schizoaffective disorder, bipolar disorder, major
3 depressive disorder, panic disorder and obsessive-compulsive disorder.
4 Nothing in this section shall be construed to prevent, limit or impair
5 consultation with any other health or mental health professional. Noth-
6 ing herein contained shall limit, modify, restrict or otherwise affect
7 the definition of the practice of school psychology as provided in
8 section eighty-seven hundred twenty-two of this article.

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

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

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

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

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

26 § 8725. Limited permits. 1. The department may issue a limited permit
27 to an applicant whose qualifications have been approved for admission to
28 the examination in accordance with regulations promulgated therefor.

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

31 3. The fee for each limited permit and for each renewal shall be
32 seventy dollars.

33 § 8726. Exemptions. Nothing contained in this article shall be
34 construed to:

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

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

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

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

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

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

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

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

(a) If such person does not meet the requirements for a license established within this article, such person may meet alternative criteria determined by the department to be the substantial equivalent of such criteria.

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

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

(a) met the educational requirements as defined in section eighty-seven hundred twenty-three of this article and performed the duties of a school psychologist for two of the past five years prior to the effective date of this article; or

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

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

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

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

a. Establish standards for preprofessional and professional education, experience and licensing examinations as required to implement the article for each profession. Notwithstanding any other provision of law, the commissioner shall establish standards requiring that all persons applying, 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 amended by section 2 of part Q of chapter 56 of the laws of 2017, 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

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

34 § 6. The education department, the office of children and family
35 services, the office of mental health and the office of alcoholism and
36 substance abuse services are hereby directed to establish a multi-tiered
37 system of support (MTSS) model of substance use prevention and inter-
38 vention utilizing tiered levels of primary prevention services and
39 secondary and tertiary intervention services and to pilot such model in
40 communities with occurrences of heroin and opioid addiction in children
41 under the age of twenty-one in New York state. Such model shall be
42 designed with the meaningful participation of mental and behavioral
43 health practitioners whose training focuses on the needs of children
44 under the age of twenty-one including, but not limited to, school
45 psychologists, such practitioners being uniquely qualified to implement
46 the model to the fullest extent possible. Such pilot shall be designed
47 for implementation by September 1, 2018.

48 § 7. Subparagraph (i) of paragraph a of subdivision 1 of section
49 6503-a of the education law, as amended by chapter 554 of the laws of
50 2013, is amended to read as follows:

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

54 § 8. Severability. If any clause, sentence, paragraph, section or part
55 of this act shall be adjudged by any court of competent jurisdiction to
56 be invalid, the judgment shall not affect, impair, or invalidate the

1 remainder thereof, but shall be confined in its operation to the clause,
2 sentence, paragraph, section or part thereof directly involved in the
3 controversy in which the judgment shall have been rendered.

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