

STATE OF NEW YORK

692

2017-2018 Regular Sessions

IN SENATE

January 4, 2017

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed 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:

ARTICLE 166-A

SCHOOL PSYCHOLOGY

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".

22 § 8722. Definition of the practice of school psychology. The practice
23 of school psychology is:

24 1. the assessment, including psycho-educational, developmental and
25 vocational assessment, evaluation and interpretation of intelligence,

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

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1 cognitive processes, aptitudes, interests, academic achievement,
2 adjustment, personality factors and motivations, or any other attri-
3 butes, to individual students or groups of students that relate to
4 learning, education or adjustment needs;

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

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

16 4. the development of programming, including designing, implementing
17 or evaluating educationally and psychologically sound learning environ-
18 ments and the facilitation of psycho-educational development of individ-
19 uals, families or groups.

20 § 8723. Requirements for a professional license. To qualify for a
21 license as a licensed school psychologist, an applicant shall fulfill
22 the following requirements:

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

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

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

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

32 (iii) assessment and appraisal of learners in home and school
33 contexts;

34 (iv) consultation and collaboration in family, school and community
35 systems;

36 (v) effective instruction and development of cognitive and academic
37 skills;

38 (vi) prevention and treatment of behavioral and emotional disorders
39 and deficits;

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

41 (viii) research and program evaluation;

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

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

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

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

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

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

7. Fees: Pay a fee of two hundred forty dollars to the department for admission to a department conducted examination and for an initial license; a fee of eighty-five dollars for each reexamination; a fee of one hundred seventy-five dollars for an initial license for persons not requiring admission to a department conducted examination 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 illness. For purposes of this section, "serious mental illness" means schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder and obsessive-compulsive disorder. Nothing in this section shall be construed to prevent, limit or impair consultation with any other health or mental health professional. Nothing herein contained shall limit, modify, restrict or otherwise affect the definition of the practice of school psychology as provided in section eighty-seven hundred twenty-two of this article.

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

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

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

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

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

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

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

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

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

1. apply to the practice, conduct, activities, services or use of any title by any person licensed or otherwise authorized to practice medicine within the state pursuant to article one hundred thirty-one of this title or by any person registered to perform services as a physician assistant within the state pursuant to article one hundred thirty-one-B of this title or by any person licensed or otherwise authorized to practice psychology within this state pursuant to article one hundred fifty-three of this title or by any person licensed or otherwise author-

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

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

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

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

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

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

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

39 § 8727. Special provisions. 1. Any nonexempt person practicing the
40 profession of school psychology shall apply for a license of such
41 profession within one year of the effective date of this section.

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

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

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

55 (a) met the educational requirements as defined in section eighty-sev-
56 en hundred twenty-three of this article and performed the duties of a

1 school psychologist for two of the past five years prior to the effec-
2 tive date of this article; or

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

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

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

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

16 a. Establish standards for preprofessional and professional education,
17 experience and licensing examinations as required to implement the arti-
18 cle for each profession. Notwithstanding any other provision of law, the
19 commissioner shall establish standards requiring that all persons apply-
20 ing, on or after January first, nineteen hundred ninety-one, initially,
21 or for the renewal of, a license, registration or limited permit to be a
22 physician, chiropractor, dentist, registered nurse, podiatrist, optome-
23 trist, psychiatrist, psychologist, licensed school psychologist,
24 licensed master social worker, licensed clinical social worker, licensed
25 creative arts therapist, licensed marriage and family therapist,
26 licensed mental health counselor, licensed psychoanalyst, dental hygien-
27 ist, licensed behavior analyst, or certified behavior analyst assistant
28 shall, in addition to all the other licensure, certification or permit
29 requirements, have completed two hours of coursework or training regard-
30 ing the identification and reporting of child abuse and maltreatment.
31 The coursework or training shall be obtained from an institution or
32 provider which has been approved by the department to provide such
33 coursework or training. The coursework or training shall include infor-
34 mation regarding the physical and behavioral indicators of child abuse
35 and maltreatment and the statutory reporting requirements set out in
36 sections four hundred thirteen through four hundred twenty of the social
37 services law, including but not limited to, when and how a report must
38 be made, what other actions the reporter is mandated or authorized to
39 take, the legal protections afforded reporters, and the consequences for
40 failing to report. Such coursework or training may also include informa-
41 tion regarding the physical and behavioral indicators of the abuse of
42 individuals with mental retardation and other developmental disabilities
43 and voluntary reporting of abused or neglected adults to the office of
44 mental retardation and developmental disabilities or the local adult
45 protective services unit. Each applicant shall provide the department
46 with documentation showing that he or she has completed the required
47 training. The department shall provide an exemption from the child abuse
48 and maltreatment training requirements to any applicant who requests
49 such an exemption and who shows, to the department's satisfaction, that
50 there would be no need because of the nature of his or her practice for
51 him or her to complete such training;

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

55 (a) The following persons and officials are required to report or
56 cause a report to be made in accordance with this title when they have

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

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

37 § 7602. State board for psychology. A state board for psychology
38 shall be appointed by the board of regents on recommendation of the
39 commissioner for the purpose of assisting the board of regents and the
40 department on matters of professional licensing and professional conduct
41 in accordance with section sixty-five hundred eight of this title. The
42 board shall be composed of not less than eleven [~~psychologists licensed~~
43 ~~in this state~~] members, a number of whom shall be licensed school
44 psychologists sufficient to assure meaningful participation in board
45 activities. An executive secretary to the board shall be appointed by
46 the board of regents upon the recommendation of the commissioner and
47 shall be a psychologist, licensed in this state.

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

54 § 6. This act shall take effect twelve months after it shall have
55 become a law; provided, however, that effective immediately the depart-
56 ment of education is authorized to promulgate any and all rules and

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