

STATE OF NEW YORK

692--C

2017-2018 Regular Sessions

IN SENATE

January 4, 2017

Introduced by Sens. ORTT, CARLUCCI, GALLIVAN, HAMILTON, HELMING, 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 -- recommitted to the Committee on Higher Education in accordance with Senate Rule 6, sec. 8 -- 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

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

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1 legislature finds that the state's mission to address the heroin and
2 opioid crises in the state will be advanced through the licensure of
3 school psychologists and the meaningful involvement of these trained
4 practitioners in the development of a school and community based strate-
5 gy of response and support.

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

8 ARTICLE 166-A
9 SCHOOL PSYCHOLOGY

10 Section 8720. Introduction.

11 8721. Practice of school psychology and use of the title "school
12 psychologist".

13 8722. Definition of the practice of school psychology.

14 8723. Requirements for a professional license.

15 8724. Boundaries of professional competency.

16 8725. Limited permits.

17 8726. Exemptions.

18 8727. Special provisions.

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

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

27 § 8722. Definition of the practice of school psychology. The practice
28 of school psychology is:

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

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

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

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

51 § 8723. Requirements for a professional license. To qualify for a
52 license as a licensed school psychologist, an applicant shall fulfill
53 the following requirements:

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

55 2. Education: Complete a minimum of sixty graduate credits and fulfill
56 the requirements of an advanced specialist degree or its equivalent or

1 doctoral degree in school psychology from a program registered by the
2 department, or determined by the department to be the substantial equiv-
3 alent in accordance with the commissioner's regulations. The graduate
4 coursework shall include, but not be limited to, the following areas:

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

6 (ii) psychopathology and exceptionalality in learning and behavior;

7 (iii) assessment and appraisal of learners in home and school
8 contexts;

9 (iv) consultation and collaboration in family, school and community
10 systems;

11 (v) effective instruction and development of cognitive and academic
12 skills;

13 (vi) prevention and treatment of behavioral and emotional disorders
14 and deficits;

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

16 (viii) research and program evaluation;

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

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

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

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

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

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

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

47 § 8724. Boundaries of professional competency. 1. It shall be deemed
48 practicing outside the boundaries of his or her professional competence
49 for a person licensed pursuant to this article, in the case of treatment
50 of any serious mental illness, to provide any mental health services
51 for such illness on a continuous and sustained basis without a medical
52 evaluation of the illness by, and consultation with, a physician regard-
53 ing such illness. Such medical evaluation and consultation shall be to
54 determine and advise whether any medical care is indicated for such
55 illness. For purposes of this section, "serious mental illness" means
56 schizophrenia, schizoaffective disorder, bipolar disorder, major

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

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

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

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

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

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

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

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

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

31 § 8726. Exemptions. Nothing contained in this article shall be
32 construed to:

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

55 2. prohibit or limit any individual who is credentialed under any law,
56 including attorneys, rape crisis counselors, certified alcoholism coun-

1 selors and certified substance abuse counselors from providing mental
2 health services within their respective established authorities;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 a. Establish standards for preprofessional and professional education,
56 experience and licensing examinations as required to implement the arti-

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

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. Paragraph (a) of subdivision 1 of section 413 of the social
49 services law, as amended by section 2 of part Q of chapter 56 of the
50 laws of 2017, is amended to read as follows:

51 (a) The following persons and officials are required to report or
52 cause a report to be made in accordance with this title when they have
53 reasonable cause to suspect that a child coming before them in their
54 professional or official capacity is an abused or maltreated child, or
55 when they have reasonable cause to suspect that a child is an abused or
56 maltreated child where the parent, guardian, custodian or other person

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

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

46 § 7. Subparagraph (i) of paragraph a of subdivision 1 of section
47 6503-a of the education law, as amended by chapter 554 of the laws of
48 2013, is amended to read as follows:

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

52 § 8. Severability. If any clause, sentence, paragraph, section or part
53 of this act shall be adjudged by any court of competent jurisdiction to
54 be invalid, the judgment shall not affect, impair, or invalidate the
55 remainder thereof, but shall be confined in its operation to the clause,

1 sentence, paragraph, section or part thereof directly involved in the
2 controversy in which the judgment shall have been rendered.

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