

STATE OF NEW YORK

1182

2019-2020 Regular Sessions

IN ASSEMBLY

January 14, 2019

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

AN ACT to amend the education law and the social services law, in relation to the practice of school psychology, 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
17 legislature finds that the state's mission to address the heroin and
18 opioid crises in the state will be advanced through the licensure of
19 school psychologists and the meaningful involvement of these trained

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

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1 practitioners in the development of a school and community based strate-
2 gy of response and support.

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

5 ARTICLE 166-A
6 SCHOOL PSYCHOLOGY

7 Section 8720. Introduction.

8 8721. Practice of school psychology and use of the title "school
9 psychologist".

10 8722. Definition of the practice of school psychology.

11 8723. Requirements for a professional license.

12 8724. Boundaries of professional competency.

13 8725. Limited permits.

14 8726. Exemptions.

15 8727. Special provisions.

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

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

24 § 8722. Definition of the practice of school psychology. The practice
25 of school psychology is:

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

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

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

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

48 § 8723. Requirements for a professional license. To qualify for a
49 license as a licensed school psychologist, an applicant shall fulfill
50 the following requirements:

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

52 2. Education: Complete a minimum of sixty graduate semester hours in
53 psychology credits including a master's degree and fulfill the require-
54 ments of an advanced certificate in school psychology or its equivalent
55 or doctoral degree in school psychology from a program registered by the
56 department, or determined by the department to be the substantial equiv-

1 alent in accordance with the commissioner's regulations. The graduate
2 coursework shall include, but not be limited to, the following areas:

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

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

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

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

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

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

45 § 8724. Boundaries of professional competency. 1. It shall be deemed
46 practicing outside the boundaries of his or her professional competence
47 for a person licensed pursuant to this article, in the case of treatment
48 of any serious mental illness, to provide any mental health services
49 for such illness on a continuous and sustained basis without a medical
50 evaluation of the illness by, and consultation with, a physician regard-
51 ing such illness. Such medical evaluation and consultation shall be to
52 determine and advise whether any medical care is indicated for such
53 illness. For purposes of this section, "serious mental illness" means
54 schizophrenia, schizoaffective disorder, bipolar disorder, major
55 depressive disorder, panic disorder and obsessive-compulsive disorder.
56 Nothing in this section shall be construed to prevent, limit or impair

1 consultation with any other health or mental health professional. Nothing
2 herein contained shall limit, modify, restrict or otherwise affect
3 the definition of the practice of school psychology as provided in
4 section eighty-seven hundred twenty-two of this article.

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

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

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

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

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

22 § 8725. Limited permits. 1. The department may issue a limited permit
23 to an applicant whose qualifications have been approved for admission to
24 the examination in accordance with regulations promulgated therefor.

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

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

29 § 8726. Exemptions. Nothing contained in this article shall be
30 construed to:

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

54 2. prohibit or limit any individual who is credentialed under any law,
55 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 as authorized by article one hundred fifty-three of
41 this title or any other provision of law, for two of the past five years
42 prior to the effective date of this article; or

43 (b) performed the duties of a school psychologist as authorized by
44 article one hundred fifty-three of this title or any other provision of
45 law, for at least five years prior to the effective date of this arti-
46 cle.

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

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

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

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

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

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

53 § 5. Paragraph (a) of subdivision 1 of section 413 of the social
54 services law, as amended by section 7 of part C of chapter 57 of the
55 laws of 2018, 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 when they have reasonable cause to suspect that a child is an abused or maltreated child where the parent, guardian, custodian or other person legally responsible for such child comes before them in their professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child: any physician; registered physician assistant; surgeon; medical examiner; coroner; dentist; dental hygienist; osteopath; optometrist; chiropractor; podiatrist; resident; intern; psychologist; licensed school psychologist; registered nurse; social worker; emergency medical technician; licensed creative arts therapist; licensed marriage and family therapist; licensed mental health counselor; licensed psychoanalyst; licensed behavior analyst; certified behavior analyst assistant; hospital personnel engaged in the admission, examination, care or treatment of persons; a Christian Science practitioner; school official, which includes but is not limited to school teacher, school guidance counselor, school psychologist, school social worker, school nurse, school administrator or other school personnel required to hold a teaching or administrative license or certificate; full or part-time compensated school employee required to hold a temporary coaching license or professional coaching certificate; social services worker; employee of a publicly-funded emergency shelter for families with children; director of a children's overnight camp, summer day camp or traveling summer day camp, as such camps are defined in section thirteen hundred ninety-two of the public health law; day care center worker; school-age child care worker; provider of family or group family day care; employee or volunteer in a residential care facility for children that is licensed, certified or operated by the office of children and family services; or any other child care or foster care worker; mental health professional; substance abuse counselor; alcoholism counselor; all persons credentialed by the office of alcoholism and substance abuse services; employees, who are expected to have regular and substantial contact with children, of a health home or health home care management agency contracting with a health home as designated by the department of health and authorized under section three hundred sixty-five-1 of this chapter or such employees who provide home and community based services under a demonstration program pursuant to section eleven hundred fifteen of the federal social security act who are expected to have regular and substantial contact with children; peace officer; police officer; district attorney or assistant district attorney; investigator employed in the office of a district attorney; or other law enforcement official.

§ 6. The education department, the office of children and family services, the office of mental health and the office of alcoholism and substance abuse services are hereby directed to establish a multi-tiered system of support (MTSS) model of substance use prevention and intervention utilizing tiered levels of primary prevention services and secondary and tertiary intervention services and to pilot such model in communities with occurrences of heroin and opioid addiction in children under the age of twenty-five in New York state. Such model shall be designed with the meaningful participation of mental and behavioral health practitioners whose training focuses on the needs of children under the age of twenty-five including, but not limited to, school

1 psychologists, such practitioners being uniquely qualified to implement
2 the model to the fullest extent possible. Such pilot shall be designed
3 for implementation by September 1, 2020.

4 § 7. Subparagraph (i) of paragraph a of subdivision 1 of section
5 6503-a of the education law, as amended by chapter 554 of the laws of
6 2013, is amended to read as follows:

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

10 § 8. Severability. If any clause, sentence, paragraph, section or part
11 of this act shall be adjudged by any court of competent jurisdiction to
12 be invalid, the judgment shall not affect, impair, or invalidate the
13 remainder thereof, but shall be confined in its operation to the clause,
14 sentence, paragraph, section or part thereof directly involved in the
15 controversy in which the judgment shall have been rendered.

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