

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

Psychologist licensure.

Sponsored by: Select Committee on Mental Health and
Substance Abuse Services

A BILL

for

1 AN ACT relating to the Wyoming state board of psychology;
2 amending the psychologists licensing act; providing for
3 application of licensing act; removing separate licensing
4 requirements related to school psychologists; revising the
5 composition of the state board of psychology as specified;
6 providing for issuance of temporary licenses to practice
7 psychology as specified; revising the grounds and
8 evidentiary standard for disciplinary actions as specified;
9 authorizing the state board to employ specified personnel;
10 amending and adding definitions; and providing for an
11 effective date.

12

13 *Be It Enacted by the Legislature of the State of Wyoming:*

1

2 **Section 1.** W.S. 33-27-113(a)(iii)(intro), by creating
3 new subparagraphs (E) through (J), (v), (vi), (viii)(A),
4 (B), by creating new paragraphs (x) through (xii), by
5 renumbering (x) as (xiii) and by creating new subsections
6 (b) and (c), 33-27-114(a), (d), (e)(iii)(intro) and
7 (f)(ii), 33-27-115(a), 33-27-116(a) and by creating a new
8 subsection (n), 33-27-117(a) through (c) and by creating a
9 new subsection (e), 33-27-119(a)(i), (ii), (b) and (d),
10 33-27-120(a), (b)(intro), (i), (iii), (iv), (v), (ix), (x),
11 (xi), (xiii) and (xvii), 33-27-122(a), (e), (f), (g),
12 (h)(intro) and (iii) and 33-27-123(a)(intro), (iii), (iv)
13 and (v) are amended to read:

14

15 **33-27-113. Definitions.**

16

17 (a) As used in this act:

18

19 (iii) "Practice of psychology" means: ~~the~~
20 ~~observation, description, evaluation, interpretation and~~
21 ~~modification of human behavior by the application of~~
22 ~~psychological principles, methods and procedures, for the~~
23 ~~purpose of preventing or eliminating symptomatic,~~

1 ~~maladaptive or undesired behavior and of enhancing~~
2 ~~interpersonal relationships, work and life adjustment,~~
3 ~~personal effectiveness, behavioral health and mental~~
4 ~~health. Psychological services may be rendered to~~
5 ~~individuals, families, groups and the public. The practice~~
6 ~~of psychology shall be construed within the meaning of this~~
7 ~~definition without regard to whether payment is received~~
8 ~~for services rendered. The practice of psychology~~
9 ~~includes, but is not limited to:~~

10
11 (E) Assessment of individual, family or
12 group behavioral, emotional or intellectual functioning for
13 one (1) or more of the following purposes:

14
15 (I) Diagnosing mental disorders;

16
17 (II) Identifying psychological or
18 neuropsychological aspects of other dysfunctions, diseases
19 or disabilities;

20
21 (III) Evaluating mental or emotional
22 status, including intelligence and aptitude;

23

1 (IV) Identifying personality
2 characteristics;

3
4 (V) Identifying psychological factors
5 influencing well-being;

6
7 (VI) Selecting, placing or referring
8 into treatments, programs or settings;

9
10 (VII) Evaluating the effectiveness of
11 psychological treatments, programs or settings;

12
13 (VIII) Preventing, by the application
14 of psychological principles, methods and procedures, mental
15 disorders or maladaptive behavior related to other
16 dysfunction, disease or disability.

17
18 (F) Engaging in a therapeutic relationship
19 with an individual, family or group for one (1) or more of
20 the following purposes:

21
22 (I) Improving the quality of mental
23 health or social adjustment;

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(II) Reducing, preventing, modifying or eliminating maladaptive or undesired behaviors, cognitions, emotions or psychological or physical characteristics;

(III) Treating diagnosed mental disorders by the application of psychological principles, methods and procedures;

(IV) Improving individual performance;

(V) Modifying cognitions, emotions or behaviors, or any combination of these, in order to influence psychological well-being; or

(VI) Psychological research.

(G) Engaging in a psychological consulting relationship with an individual, organization, group or community, or any combination of these, for the purpose of:

1 (I) Designing or delivering
2 psychological programs or services;

3
4 (II) Evaluating psychological programs
5 or services; or

6
7 (III) Providing psychological
8 supervision to other psychologists, trainees or other staff
9 members of the psychologist offering psychological
10 services.

11
12 (H) Evaluation, diagnosis, or test
13 interpretation including assessment of intellectual
14 ability, learning patterns, achievement, motivation,
15 personality or neurological factors directly related to
16 learning problems in an educational setting;

17
18 (J) Counseling services for children or
19 adults for amelioration or prevention of educationally
20 related learning problems.

21
22 (v) "Psychologist" means a person licensed to
23 practice psychology under this act;

1

2 (vi) "Representation as a psychologist" ~~or~~
3 ~~school psychologist~~ means using any title or description
4 of services incorporating the words psychology,
5 psychologic, psychological or psychologist or any other
6 term that implies that a person is trained, experienced or
7 an expert in the field of psychology;

8

9 (viii) "Sexual exploitation of a client or
10 patient" means:

11

12 (A) Any ~~verbal behavior~~ offer by a
13 psychologist ~~or school psychologist which involves offers~~
14 ~~of to~~ exchange ~~of~~ professional services for some form of
15 sexual gratification; or

16

17 (B) ~~Unlawful or unprofessional~~ Sexual
18 contact with a client or patient.

19

20 (x) "Assessment" means applying psychological
21 principles, methods or procedures in observation,
22 description, testing, appraisal, evaluation, screening,
23 test interpretation, interviewing, diagnosis of mental

1 disorders, neuropsychological testing, psychological
2 testing or evaluation, psycho-educational testing or
3 evaluation or any combination of these;
4

5 (xi) "Psychological consulting relationship"
6 means the application of psychological principles, methods
7 or procedures in consulting, intervention, program
8 evaluation, organizational psychology, environmental
9 psychology, community psychology, experimental psychology
10 or any combination of these;
11

12 (xii) "Therapeutic relationship" means the
13 application of psychological principles, methods or
14 procedures in psychotherapy, psychoanalysis, therapy,
15 family therapy, marital therapy, couples therapy, play
16 therapy, counseling, rehabilitation, intervention,
17 hypnotherapy, biofeedback, behavior therapy, behavior
18 modification, psychological counseling, human potential
19 psychology, vocational counseling, school counseling,
20 growth psychology, alcohol or substance abuse counseling,
21 remediation or any combination of these;
22

1 ~~(x)~~(xiii) "This act" means W.S. 33-27-113
 2 through 33-27-123.

3
 4 (b) A person not otherwise exempt from this act is
 5 engaged in the practice of psychology when performing any
 6 of the activities enumerated in paragraph (a)(iii) of this
 7 section, without regard to whether payment is received for
 8 services rendered.

9
 10 (c) A person is deemed to be practicing as a
 11 psychologist within the meaning of this act if the person
 12 engages by electronic means within this state in any of the
 13 activities enumerated in paragraph (a)(iii) of this
 14 section, including, but not limited to, communication using
 15 a telephone, the Internet or similar proprietary or common
 16 carrier electronic system technology.

17
 18 **33-27-114. Exemptions.**

19
 20 (a) Nothing in this act shall be construed to prevent
 21 members of other recognized professions who are licensed,
 22 certified or regulated under the laws of this state as
 23 defined in the rules and regulations from rendering

1 services consistent with their professional training and
2 code of ethics, provided that they do not represent
3 themselves to be psychologists. ~~or school psychologists.~~

4
5 (d) Nothing in this act shall be construed to prevent
6 the teaching of psychology, the conducting of psychological
7 research, or the provision of industrial or organizational
8 consultation provided that such teaching, research or
9 consultation does not ~~involve the delivery or supervision~~
10 ~~of direct psychological services to individuals who are~~
11 ~~themselves rather than a third party the intended~~
12 ~~beneficiaries of the services without regard to the source~~
13 ~~or extent of payment for services rendered~~ constitute the
14 practice of psychology. Nothing in this act shall prevent
15 the provision of expert testimony by psychologists who are
16 exempted by this act. Persons holding an earned doctoral
17 degree in psychology from an institution of higher
18 education may use the title "psychologist" in conjunction
19 with the activities permitted in this subsection.

20
21 (e) Nothing in this act shall be construed to prevent
22 the persons described in this subsection from engaging in
23 activities defined as the practice of psychology, provided

1 that the persons shall not represent themselves by the
2 title "psychologist." The persons may use the terms
3 "psychological trainee," "psychological intern,"
4 "psychological resident" or "psychological practitioner"
5 and shall perform their activities under the supervision
6 and responsibility of a licensed psychologist in accordance
7 with the rules promulgated by the board. This subsection
8 shall only apply to:

9

10 (iii) A qualified practitioner holding a ~~masters~~
11 master's degree or doctoral degree in psychology from a
12 program approved by the board while working under the
13 supervision of a licensed psychologist. The board, in its
14 rules and regulations, shall establish:

15

16 (f) Nothing in this act shall be construed to prevent
17 specialists in school psychology from engaging in
18 activities defined as the practice of school psychology,
19 provided that they shall not represent themselves by the
20 title "school psychologist." These persons may perform
21 their activities under the supervision and responsibility
22 of a psychologist ~~or school psychologist~~ in accordance with

1 the rules promulgated by the board. The board, in its
2 rules and regulations, shall establish:

3

4 (ii) The number of specialists that a
5 psychologist ~~or school psychologist~~ may employ;

6

7 **33-27-115. State board of psychology.**

8

9 (a) The Wyoming state board of psychology shall
10 consist of ~~five (5)~~ six (6) licensed psychologists, ~~one (1)~~
11 ~~school psychologist~~, one (1) psychological practitioner and
12 two (2) public members appointed by the governor. Each
13 member shall be a resident of this state. Each member who
14 is a psychologist ~~or school psychologist~~ shall be licensed
15 under this act and shall have a minimum of three (3) years
16 of post-licensure experience. ~~7, except the first school~~
17 ~~psychologist shall have a minimum of five (5) years~~
18 ~~professional experience.~~ At least one (1) member who is a
19 psychologist shall be engaged full time in the doctoral
20 teaching and training of psychologists, and at least two
21 (2) members who are psychologists shall be engaged full
22 time in the professional practice of psychology. The
23 ~~initial~~ psychological practitioner shall have a minimum of

1 ~~five (5) years of professional experience and each~~
2 ~~succeeding psychological practitioner member shall have a~~
3 ~~minimum of~~ three (3) years post-certification experience.
4 The composition of the board shall represent both the
5 public and private sectors of the practice of psychology.
6 Public members shall not be psychologists, ~~school~~
7 ~~psychologists,~~ psychological practitioners, applicants or
8 former applicants for licensure or certification under this
9 act, members of another health profession, or members of a
10 household that includes a person licensed or certified
11 under this act. Board members shall be appointed who are
12 free from conflict of interest in performing the duties of
13 the board.

14

15 **33-27-116. Powers and duties of the board.**

16

17 (a) In accordance with this act and rules and
18 regulations promulgated under it, the board shall determine
19 a person's initial and continuing qualifications and
20 fitness to practice psychology, ~~or school psychology,~~
21 proceed against the unlawful and unlicensed practice of
22 psychology ~~or school psychology~~ and otherwise enforce this
23 act. ~~The board may employ necessary personnel.~~

1

2 (n) The board may employ or contract with an
3 executive secretary, board counsel and other necessary
4 staff. The executive secretary shall not be a member of
5 the board. The board may set the salary for the executive
6 secretary and board counsel. The salaries of other staff
7 shall be set by the human resources division of the
8 department of administration and information.

9

10 **33-27-117. Requirements for licensure.**

11

12 (a) The board shall issue a license as a psychologist
13 ~~or school psychologist, as appropriate,~~ to any applicant
14 who files an application upon a form and in a manner as
15 prescribed by the board, accompanied by the appropriate fee
16 and who furnishes satisfactory evidence to the board of the
17 following which evidence shall comply with rules and
18 regulations of the board:

19

20 (i) The ~~applicant submits evidence as the board~~
21 ~~deems desirable with due regard to the paramount interests~~
22 ~~of the public regarding his~~ applicant's honesty,
23 truthfulness, integrity and competency;

1

2 (ii) The ~~applicant possesses~~ applicant's receipt
3 of a doctoral degree from a program of graduate study in
4 psychology as defined in the rules and regulations, awarded
5 by an institution of higher education;

6

7 (iii) The ~~applicant demonstrates that he has~~
8 ~~completed two (2) years of supervised professional~~
9 ~~experience, one (1) year of which shall be predoctoral, and~~
10 ~~one (1) year of which shall be postdoctoral~~ applicant's
11 completion of one (1) year of predoctoral supervised
12 experience;

13

14 (iv) The ~~applicant has passed~~ applicant's
15 successful completion of the examination for professional
16 practice in psychology ~~or the national school psychology~~
17 ~~examination,~~ and any other written or oral examinations
18 prescribed by the board. The acceptable level of
19 performance for all examinations and policies regarding
20 reexamination of failed applicants shall be determined by
21 the board.

22

1 (b) The board may waive any examination if a
2 psychologist ~~or school psychologist~~ has been licensed in
3 another jurisdiction and if the requirements for licensure
4 in that jurisdiction are equal to, or exceed, the
5 requirements for licensure in this ~~jurisdiction~~ state.

6
7 (c) A person licensed as a psychologist or school
8 psychologist in this state on June 30, ~~1993-2008~~ shall be
9 deemed to have met all requirements for licensure under
10 this act and shall be eligible for renewal of licensure as
11 a psychologist in accordance with this act.

12
13 (e) The board may issue a temporary license to an
14 applicant who is licensed or certified by a board of
15 psychology of another United States state or territory, or
16 of a foreign county or province whose standards are equal
17 to or exceed the requirements for licensure as a
18 psychologist in this state. A temporary licensee may offer
19 services as a psychologist in this state for not more than
20 thirty (30) working days in any year without holding a
21 permanent license issued under this act. The temporary
22 licensee shall report the nature and extent of the
23 licensee's practice in this state to the board if that

1 practice exceeds twenty (20) working days in any one (1)
2 calendar year.

3
4 **33-27-119. Practice without license.**

5
6 (a) No person shall:

7
8 (i) Represent himself as a psychologist; ~~or~~
9 ~~school psychologist; or~~

10
11 (ii) Engage in the practice of psychology ~~or~~
12 ~~school psychology~~ as defined in this act unless exempted in
13 W.S. 33-27-114.

14
15 (b) Unless exempt under W.S. 33-27-114, any person
16 who represents himself as a psychologist or ~~school~~
17 ~~psychologist or~~ who engages in the practice of psychology
18 ~~or school psychology~~ in violation of this act, is guilty of
19 a misdemeanor punishable by a fine of not more than seven
20 hundred fifty dollars (\$750.00), imprisonment for not more
21 than six (6) months, or both. Each violation shall
22 constitute a separate offense.

23

1 (d) No person whose license to practice as a
2 psychologist ~~or school psychologist~~ in any jurisdiction has
3 been suspended or revoked shall practice psychology ~~or~~
4 ~~school psychology~~ in this state. The board may suspend or
5 revoke the license of that person. The board may issue a
6 new license whenever it deems the issuance to be safe and
7 just.

8
9 **33-27-120. Grounds for denial, suspension or**
10 **revocation of license and other disciplinary sanctions.**

11
12 (a) A psychologist ~~or school psychologist~~ and anyone
13 under his supervision shall conduct his professional
14 activities in conformity with ethical and professional
15 standards promulgated by the board under its rules and
16 regulations.

17
18 (b) The board may suspend, place on probation,
19 require remediation for a specified time to be determined
20 at the discretion of the board, restrict or revoke any
21 license to practice psychology, ~~or school psychology,~~ deny
22 an application for licensure, or take any other action
23 specified in the rules and regulations whenever the board

1 shall find by ~~a preponderance of the~~ clear and convincing
2 evidence, following a hearing conducted by the board
3 pursuant to this act, that the psychologist, ~~school~~
4 ~~psychologist~~ or applicant has engaged in conduct prohibited
5 by this act, rules or regulations promulgated by the board,
6 or in any of the following acts or offenses:

7

8 (i) Fraud in applying for or procuring a license
9 to practice psychology; ~~or school psychology;~~

10

11 (iii) Practicing psychology ~~or school psychology~~
12 in a manner which endangers the welfare of clients or
13 patients;

14

15 (iv) Conviction of a felony that interferes with
16 the ability to practice psychology ~~or school psychology~~ as
17 defined in the rules and regulations;

18

19 (v) Conviction, ~~including a plea of nolo~~
20 ~~contendere, to of~~ any felony or conviction ~~or plea of nolo~~
21 ~~contendere to of~~ any crime or offense that reflects the
22 inability of the practitioner to practice with due regard
23 for the health and safety of clients or patients. A copy

1 of the conviction certified by the clerk of the court
2 entering the conviction is conclusive evidence of the
3 conviction;

4

5 (ix) Malpractice or negligence in the practice
6 of psychology; ~~or school psychology;~~

7

8 (x) Aiding or abetting the practice of
9 psychology ~~or school psychology~~ by a person not licensed by
10 the board;

11

12 (xi) ~~Conviction of~~ Fraud in filing medicare or
13 medicaid claims or in filing claims to any third party
14 payor;

15

16 (xiii) The suspension or revocation by another
17 state of a license to practice psychology; ~~or school~~
18 ~~psychology;~~

19

20 (xvii) Inability to practice psychology ~~or~~
21 ~~school psychology~~ with reasonable skill and safety to
22 patients or clients by reason of illness, inebriation,
23 misuse of drugs, narcotics, alcohol, chemicals or any other

1 substance or as a result of any mental or physical
2 condition.

3

4 **33-27-122. Board hearings and investigations.**

5

6 (a) The board may investigate or cause to be
7 investigated any allegation or evidence that appears to
8 show that a psychologist ~~or school psychologist~~ licensed to
9 practice in this jurisdiction, and anyone under his
10 supervision is, or may be, in violation of this act or of
11 any of the rules and regulations adopted by the board.

12

13 (e) The board may conduct a default hearing if, after
14 due notice, the individual fails or ~~refused~~ refuses to
15 appear. The board shall have the authority to issue
16 subpoenas for production of documents and witnesses and to
17 administer oaths. The board may apply to a court of
18 competent jurisdiction to compel compliance with a
19 subpoena.

20

21 (f) A psychologist ~~or school psychologist~~ may
22 surrender his license when he is charged with ~~unethical~~
23 ~~conduct~~ any violation of this act or board rules and

1 regulations, and such surrender and acceptance by the board
2 shall constitute acknowledgment by the person as an
3 admission of guilt as charged. The circumstances of the
4 surrender shall be reported in the same fashion as a
5 revocation action.

6

7 (g) A psychologist ~~or school psychologist~~ may request
8 in writing to the board that a restriction be placed upon
9 his license to practice. The board, in its discretion, may
10 accept a surrender or grant a request for restriction and
11 shall have the authority to attach restrictions to the
12 license to practice within this state or otherwise to
13 discipline the licensee.

14

15 (h) Subsequent to the holding of a hearing and the
16 taking of evidence by the board as provided for in this
17 section, if a majority of the board finds that a
18 psychologist ~~or school psychologist~~ is in violation of this
19 act or guilty of any of the acts, offenses or conditions as
20 enumerated by the board, the following actions may be
21 taken:

22

1 (iii) The board may impose revocation or
2 suspension of a license, but suspend enforcement thereof by
3 placing the psychologist ~~or school psychologist~~ on
4 probation, which probation shall be revocable if the board
5 finds the conditions of the probation order are not being
6 followed. As a condition of probation the board may
7 require the psychologist ~~or school psychologist~~ to submit
8 to care, counseling or treatment by a professional
9 designated by the board. The expense of the action shall
10 be borne by the probationer. The board may at any time
11 modify the conditions of the probation and may include
12 among them any reasonable condition for the purpose of the
13 protection of the public, or for the purpose of the
14 rehabilitation of the probationer, or both;

15

16 **33-27-123. Privileged communication.**

17

18 (a) In judicial proceedings, whether civil, criminal,
19 or juvenile, in legislative and administrative proceedings,
20 and in proceedings preliminary and ancillary thereto, a
21 patient or client, or his guardian or personal
22 representative, may refuse to disclose or prevent the
23 disclosure of confidential information, including

1 information contained in administrative records,
2 communicated to a person licensed or otherwise authorized
3 to practice under this act, or to persons reasonably
4 believed by the patient or client to be so licensed, and
5 their agents, for the purpose of diagnosis, evaluation or
6 treatment of any mental or emotional condition or disorder.
7 The psychologist ~~or school psychologist~~ shall not disclose
8 any information communicated as described above in the
9 absence of an express waiver of the privilege except in the
10 following circumstances:

11

12 (iii) Where such information is necessary for
13 the psychologist ~~or school psychologist~~ to defend against a
14 malpractice action brought by the patient or client;

15

16 (iv) Where an immediate threat of physical
17 violence against a readily identifiable victim is disclosed
18 to the psychologist; ~~or school psychologist;~~

19

20 (v) In the context of civil commitment
21 proceedings, where an immediate threat of self-inflicted
22 damage is disclosed to the psychologist; ~~or school~~
23 ~~psychologist;~~

1

2 **Section 2.** W.S. 33-27-113(a)(iii)(A) through (D),

3 (vii) and (ix) is repealed.

4

5 **Section 3.**

6

7 (a) The term of the person representing school
8 psychologists on the Wyoming state board of psychology
9 shall terminate effective May 1, 2008 and the person shall
10 not be reappointed unless the person:

11

12 (i) Otherwise qualifies for appointment as
13 provided in W.S. 33-27-115(a), as amended by this act; and

14

15 (ii) Is not ineligible for reappointment, as
16 provided in W.S. 33-27-115(c).

17

18 **Section 4.** This act is effective July 1, 2008.

19

20

(END)