

ENROLLED ACT NO. 66, SENATE

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2009 GENERAL SESSION

AN ACT relating to the Wyoming state board of psychology; amending the psychologists licensing act; providing for application of licensing act; removing separate licensing requirements related to school psychologists; revising the composition of the state board of psychology as specified; providing for issuance of temporary licenses to practice psychology as specified; revising the grounds and evidentiary standard for disciplinary actions as specified; authorizing the state board to employ specified personnel; and providing for an effective date.

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

Section 1. W.S. 33-27-113(a)(iii) and by creating a new subsection (b), 33-27-114(a), (e)(iii)(intro), (f)(intro), (ii) and by creating a new subsection (g), 33-27-115(a), 33-27-116(a) and by creating a new subsection (n), 33-27-117(a) through (c) and by creating a new subsection (e), 33-27-119(b) and (d), 33-27-120(a), (b)(intro), (i), (iii), (iv), (v), (ix), (x), (xi), (xiii) and (xvii) and by creating a new subsection (e), 33-27-122(a), (e), (f), (g), (h)(intro) and (iii) and 33-27-123(a)(intro), (iii), (iv) and (v) are amended to read:

33-27-113. Definitions.

(a) As used in this act:

(iii) "Practice of psychology" means the observation, description, evaluation, interpretation and modification of human behavior by the application of psychological principles, methods and procedures, for the purpose of any one (1) or any combination of the following:

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(A) Preventing, or eliminating, evaluating or assessing symptomatic, maladaptive or undesired behavior; ~~and of~~

(B) Enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health and mental health; ~~Psychological services may be rendered to individuals, families, groups and the public. The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is received for services rendered. The practice of psychology includes, but is not limited to:~~

(C) Consulting in legal decision making;

~~(A)~~ (D) Psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes and neuropsychological functioning;

~~(B)~~ (E) Psychoanalysis, psychotherapy, hypnosis, biofeedback and behavior analysis and therapy;

~~(C)~~ (F) Diagnosis and treatment of mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct, as well as of psychological aspects of physical illness, accident, injury or disability; ~~and~~

~~(D)~~ (G) Psychoeducational evaluation, therapy, remediation and consultation.

(b) A person not otherwise exempt from this act is engaged in the practice of psychology when the person advertises or represents that he is authorized to practice

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psychology and performs any of the activities enumerated in paragraph (a)(iii) of this section without regard to whether payment is received for services rendered.

33-27-114. Exemptions.

(a) Nothing in this act shall be construed to prevent members of other recognized professions who are licensed, certified or regulated under the laws of this state as defined in the rules and regulations from rendering services consistent with their professional training and code of ethics, provided that they do not represent themselves to be psychologists ~~or school psychologists.~~

(e) Nothing in this act shall be construed to prevent the persons described in this subsection from engaging in activities defined as the practice of psychology, provided that the persons shall not represent themselves by the title "psychologist." The persons may use the terms "psychological trainee," "psychological intern," "psychological resident" or "psychological practitioner" and shall perform their activities under the supervision and responsibility of a licensed psychologist in accordance with the rules promulgated by the board. This subsection shall only apply to:

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

(f) Nothing in this act shall be construed to prevent specialists in school psychology from engaging in activities defined as the practice of school psychology, provided that they shall not represent themselves by the

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title "~~school~~ psychologist." These persons may perform their activities under the supervision and responsibility of a psychologist ~~or school psychologist~~ in accordance with the rules promulgated by the board. The board, in its rules and regulations, shall establish:

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

(g) Nothing in this act may be construed to require employees or contractors of a state agency to be licensed under this act in order to perform their official duties related to the evaluation, auditing or designing of programs, provided those employees or contractors do not hold themselves out to be psychologists.

33-27-115. State board of psychology.

(a) The Wyoming state board of psychology shall consist of ~~five (5)~~ six (6) licensed psychologists, ~~one (1) school psychologist~~, one (1) psychological practitioner and two (2) public members appointed by the governor. Each member shall be a resident of this state. Each member who is a psychologist ~~or school psychologist~~ shall be licensed under this act and shall have a minimum of three (3) years of post-licensure experience, ~~except the first school psychologist shall have a minimum of five (5) years professional experience.~~ At least one (1) member who is a psychologist shall be engaged full time in the doctoral teaching and training of psychologists, and at least two (2) members who are psychologists shall be engaged full time in the professional practice of psychology. The ~~initial~~ psychological practitioner shall have a minimum of ~~five (5) years of professional experience and each succeeding psychological practitioner member shall have a minimum of~~ three (3) years post-certification experience.

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The composition of the board shall represent both the public and private sectors of the practice of psychology. Public members shall not be psychologists, ~~school psychologists,~~ psychological practitioners, applicants or former applicants for licensure or certification under this act, members of another health profession, or members of a household that includes a person licensed or certified under this act. Board members shall be appointed who are free from conflict of interest in performing the duties of the board.

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

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

(n) The board may employ or contract with an executive secretary and other necessary staff. The executive secretary shall not be a member of the board. The board may set the salary for the executive secretary.

33-27-117. Requirements for licensure.

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

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

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

(iii) The ~~applicant demonstrates that he has completed two (2) years of supervised professional experience, one (1) year of which shall be predoctoral, and one (1) year of which shall be postdoctoral~~ applicant's completion of two (2) years of supervised professional experience which may be completed prior and subsequent to the granting of the degree required under paragraph (ii) of this subsection;

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

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

(c) A person licensed as a psychologist or school psychologist in this state on June 30, ~~1993~~ 2009 shall be

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deemed to have met all requirements for licensure under this act and shall be eligible for renewal of licensure as a psychologist in accordance with this act.

(e) The board may issue a temporary license to an applicant who is licensed or certified by a board of psychology of another United States state or territory, or of a foreign country or province whose standards are equal to or exceed the requirements for licensure as a psychologist in this state. A temporary licensee may offer services as a psychologist in this state for not more than thirty (30) working days in any year without holding a permanent license issued under this act. The temporary licensee shall report the nature and extent of the licensee's practice in this state to the board if that practice exceeds twenty (20) working days in any one (1) calendar year.

33-27-119. Practice without license.

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

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

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

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

(b) After notice and a hearing, the board may ~~suspend, place on probation, require remediation for a specified time to be determined at the discretion of the board, restrict or revoke any license to practice psychology or school psychology, deny an application for licensure, or take any other action specified in the rules and regulations whenever the board shall find by a preponderance of the evidence, following a hearing conducted by the board pursuant to this act, that the psychologist, school psychologist or applicant has engaged in conduct prohibited by this act, rules or regulations promulgated by the board, or in~~ revoke, refuse to renew, reprimand, censure, limit the scope of practice, place on probation with or without terms, conditions or limitations or suspend licenses to practice psychology for any of the following acts or offenses:

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

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

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

(v) Conviction, ~~including a plea of nolo contendere, to~~ of any felony or conviction ~~or plea of nolo contendere to~~ of any crime or offense that reflects the inability of the practitioner to practice with due regard for the health and safety of clients or patients. A copy of the conviction certified by the clerk of the court entering the conviction is conclusive evidence of the conviction;

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

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

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

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

(xvii) Inability to practice psychology ~~or school psychology~~ with reasonable skill and safety to patients or clients by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals or any other substance or as a result of any mental or physical condition.

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(e) For purposes of this section, "conviction" means and includes a plea of guilty, nolo contendere and a verdict of guilty upon which a judgment of conviction may be rendered.

33-27-122. Board hearings and investigations.

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

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

(f) A psychologist ~~or school psychologist~~ may surrender his license when he is charged with ~~unethical conduct~~ any violation of this act or board rules and regulations, and such surrender and acceptance by the board shall constitute acknowledgment by the person as an admission of guilt as charged. The circumstances of the surrender shall be reported in the same fashion as a revocation action.

(g) A psychologist ~~or school psychologist~~ may request in writing to the board that a restriction be placed upon his license to practice. The board, in its discretion, may accept a surrender or grant a request for restriction and shall have the authority to attach restrictions to the

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license to practice within this state or otherwise to discipline the licensee.

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

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

33-27-123. Privileged communication.

(a) In judicial proceedings, whether civil, criminal, or juvenile, in legislative and administrative proceedings, and in proceedings preliminary and ancillary thereto, a patient or client, or his guardian or personal representative, may refuse to disclose or prevent the disclosure of confidential information, including information contained in administrative records, communicated to a person licensed or otherwise authorized

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to practice under this act, or to persons reasonably believed by the patient or client to be so licensed, and their agents, for the purpose of diagnosis, evaluation or treatment of any mental or emotional condition or disorder. The psychologist ~~or school psychologist~~ shall not disclose any information communicated as described above in the absence of an express waiver of the privilege except in the following circumstances:

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

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

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

Section 2. W.S. 33-27-113(a)(vii) and 33-27-119(a) are repealed.

Section 3. The term of the person representing school psychologists on the Wyoming state board of psychology shall continue pursuant to the terms of his gubernatorial appointment and the person shall not be reappointed unless the person otherwise qualifies for appointment as provided in W.S. 33-27-115, as amended by this act.

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Section 4. This act is effective July 1, 2009.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk