

HOUSE BILL NO. HB0122

Psychologist licensure.

Sponsored by: Representative(s) Warren, Berger, Gingery,
Iekel and Millin and Senator(s) Burns, Coe,
Massie, Ross and Schiffer

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:*

14

15 **Section 1.** W.S. 33-27-113(a)(iii)(intro), by creating
16 new subparagraphs (E) through (J), (v), (vi), (viii)(A),

(B), by creating new paragraphs (x) through (xii), by renumbering (x) as (xiii) and by creating new subsections (b) and (c), 33-27-114(a), (d), (e)(iii)(intro) and (f)(ii), 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(a)(i), (ii), (b) and (d), 33-27-120(a), (b)(intro), (i), (iii), (iv), (v), (ix), (x), (xi), (xiii) and (xvii), 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; application of act.

(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 preventing or eliminating symptomatic, maladaptive or undesired behavior and of 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:~~

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

(I) Diagnosing mental disorders;

(II) Identifying psychological or neuropsychological aspects of other dysfunctions, diseases or disabilities;

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

(IV) Identifying personality characteristics;

(V) Identifying psychological factors influencing well-being;

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

(VII) Evaluating the effectiveness of
treatments, programs or settings;

(VIII) Preventing mental disorders or
maladaptive behavior related to other dysfunction, disease
or disability.

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

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

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

1 (III) Treating diagnosed mental
2 disorders;

3
4 (IV) Improving individual performance;

5
6 (V) Modifying cognitions, emotions or
7 behaviors, or any combination of these, in order to
8 influence psychological well-being; or

9
10 (VI) Psychological research.

11
12 (G) Engaging in a psychological consulting
13 relationship with an individual, organization, group or
14 community, or any combination of these, for the purpose of:

15
16 (I) Designing or delivering
17 psychological programs or services;

18
19 (II) Evaluating psychological programs
20 or services; or

21
22 (III) Providing psychological
23 supervision to other psychologists, trainees or other staff

1 members of the psychologist offering psychological
2 services.

3
4 (H) Evaluation, diagnosis, or test
5 interpretation limited to assessment of intellectual
6 ability, learning patterns, achievement, motivation,
7 personality or neurological factors directly related to
8 learning problems in an educational setting;

9
10 (J) Counseling services for children or
11 adults for amelioration or prevention of educationally
12 related learning problems.

13
14 (v) "Psychologist" means a person licensed to
15 practice psychology under this act;

16
17 (vi) "Representation as a psychologist" ~~or~~
18 ~~school psychologist~~ means using any title or description
19 of services incorporating the words psychology,
20 psychologic, psychological or psychologist or any other
21 term that implies that a person is trained, experienced or
22 an expert in the field of psychology;

23

1 (viii) "Sexual exploitation of a client or
2 patient" means:

3

4 (A) Any ~~verbal behavior~~ offer by a
5 psychologist ~~or school psychologist which involves offers~~
6 ~~of~~ to exchange ~~of~~ professional services for some form of
7 sexual gratification; or

8

9 (B) ~~Unlawful or unprofessional~~ Sexual
10 contact with a client or patient.

11

12 (x) "Assessment" means applying psychological
13 principles, methods or procedures in observation,
14 description, testing, appraisal, evaluation, screening,
15 test interpretation, interviewing, diagnosis of mental
16 disorders, neuropsychological testing, psychological
17 testing or evaluation, psycho-educational testing or
18 evaluation or any combination of these;

19

20 (xi) "Psychological consulting relationship"
21 means the application of psychological principles, methods
22 or procedures in consulting, intervention, program
23 evaluation, organizational psychology, environmental

1 psychology, community psychology, experimental psychology
2 or any combination of these;

3
4 (xii) "Therapeutic relationship" means the
5 application of psychological principles, methods or
6 procedures in psychotherapy, psychoanalysis, therapy,
7 family therapy, marital therapy, couples therapy, play
8 therapy, counseling, rehabilitation, intervention,
9 hypnotherapy, biofeedback, behavior therapy, behavior
10 modification, psychological counseling, human potential
11 psychology, vocational counseling, school counseling,
12 growth psychology, alcohol or substance abuse counseling,
13 remediation or any combination of these;

14
15 ~~(x)~~ (xiii) "This act" means W.S. 33-27-113
16 through 33-27-123.

17
18 (b) A person not otherwise exempt from this act is
19 engaged in the practice of psychology when performing any
20 of the activities enumerated in paragraph (a)(iii) of this
21 section, without regard to whether payment is received for
22 services rendered.

23

1 (c) A person is deemed to be practicing as a
2 psychologist within the meaning of this act if the person
3 engages by electronic means within this state in any of the
4 activities enumerated in paragraph (a)(iii) of this
5 section, including, but not limited to, communication using
6 a telephone, the Internet or similar proprietary or common
7 carrier electronic system technology.

8
9 **33-27-114. Exemptions.**

10
11 (a) Nothing in this act shall be construed to prevent
12 members of other recognized professions who are licensed,
13 certified or regulated under the laws of this state as
14 defined in the rules and regulations from rendering
15 services consistent with their professional training and
16 code of ethics, provided that they do not represent
17 themselves to be psychologists ~~. or school psychologists.~~

18
19 (d) Nothing in this act shall be construed to prevent
20 the teaching of psychology, the conducting of psychological
21 research, or the provision of industrial or organizational
22 consultation provided that such teaching, research or
23 consultation does not ~~involve the delivery or supervision~~
24 ~~of direct psychological services to individuals who are~~

1 ~~themselves rather than a third party the intended~~
2 ~~beneficiaries of the services without regard to the source~~
3 ~~or extent of payment for services rendered~~ constitute the
4 practice of psychology. Nothing in this act shall prevent
5 the provision of expert testimony by psychologists who are
6 exempted by this act. Persons holding an earned doctoral
7 degree in psychology from an institution of higher
8 education may use the title "psychologist" in conjunction
9 with the activities permitted in this subsection.

10

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

22

23 (iii) A qualified practitioner holding a ~~masters~~
24 master's degree or doctoral degree in psychology from a

1 program approved by the board while working under the
2 supervision of a licensed psychologist. The board, in its
3 rules and regulations, shall establish:

4
5 (f) Nothing in this act shall be construed to prevent
6 specialists in school psychology from engaging in
7 activities defined as the practice of school psychology,
8 provided that they shall not represent themselves by the
9 title "school psychologist." These persons may perform
10 their activities under the supervision and responsibility
11 of a psychologist ~~or school psychologist~~ in accordance with
12 the rules promulgated by the board. The board, in its
13 rules and regulations, shall establish:

14
15 (ii) The number of specialists that a
16 psychologist ~~or school psychologist~~ may employ;

17
18 **33-27-115. State board of psychology.**

19
20 (a) The Wyoming state board of psychology shall
21 consist of ~~five (5)~~ six (6) licensed psychologists, ~~one (1)~~
22 ~~school psychologist~~, one (1) psychological practitioner and
23 two (2) public members appointed by the governor. Each
24 member shall be a resident of this state. Each member who

1 is a psychologist ~~or school psychologist~~ shall be licensed
2 under this act and shall have a minimum of three (3) years
3 of post-licensure experience. ~~, except the first school~~
4 ~~psychologist shall have a minimum of five (5) years~~
5 ~~professional experience.~~ At least one (1) member who is a
6 psychologist shall be engaged full time in the doctoral
7 teaching and training of psychologists, and at least two
8 (2) members who are psychologists shall be engaged full
9 time in the professional practice of psychology. The
10 ~~initial~~ psychological practitioner ~~shall have a minimum of~~
11 ~~five (5) years of professional experience and each~~
12 ~~succeeding psychological practitioner member~~ shall have a
13 minimum of three (3) years post-certification experience.
14 The composition of the board shall represent both the
15 public and private sectors of the practice of psychology.
16 Public members shall not be psychologists, ~~school~~
17 ~~psychologists,~~ psychological practitioners, applicants or
18 former applicants for licensure or certification under this
19 act, members of another health profession, or members of a
20 household that includes a person licensed or certified
21 under this act. Board members shall be appointed who are
22 free from conflict of interest in performing the duties of
23 the board.

24

1 **33-27-116. Powers and duties of the board.**

2

3 (a) In accordance with this act and rules and

4 regulations promulgated under it, the board shall determine

5 a person's initial and continuing qualifications and

6 fitness to practice psychology, ~~or school psychology,~~

7 proceed against the unlawful and unlicensed practice of

8 psychology ~~or school psychology~~ and otherwise enforce this

9 act. ~~The board may employ necessary personnel.~~

10

11 (n) The board may employ or contract with an

12 executive secretary, board counsel and other necessary

13 staff. The executive secretary shall not be a member of

14 the board. The board may set the salary for the executive

15 secretary and board counsel. The salaries of other staff

16 shall be set by the human resources division of the

17 department of administration and information.

18

19 **33-27-117. Requirements for licensure.**

20

21 (a) The board shall issue a license as a psychologist

22 ~~or school psychologist, as appropriate,~~ to any applicant

23 who files an application upon a form and in a manner as

24 prescribed by the board, accompanied by the appropriate fee

1 and who furnishes satisfactory evidence to the board of the
2 following which evidence shall comply with rules and
3 regulations of the board:
4

5 (i) The ~~applicant submits evidence as the board~~
6 ~~deems desirable with due regard to the paramount interests~~
7 ~~of the public regarding his~~ applicant's honesty,
8 truthfulness, integrity and competency;
9

10 (ii) The ~~applicant possesses~~ applicant's receipt
11 of a doctoral degree from a program of graduate study in
12 psychology as defined in the rules and regulations, awarded
13 by an institution of higher education;
14

15 (iii) The ~~applicant demonstrates that he has~~
16 ~~completed two (2) years of supervised professional~~
17 ~~experience, one (1) year of which shall be predoctoral, and~~
18 ~~one (1) year of which shall be postdoctoral~~ applicant's
19 completion of one (1) year of predoctoral supervised
20 experience;
21

22 (iv) The ~~applicant has passed~~ applicant's
23 successful completion of the examination for professional
24 practice in psychology ~~or the national school psychology~~

1 ~~examination,~~ and any other written or oral examinations
2 prescribed by the board. The acceptable level of
3 performance for all examinations and policies regarding
4 reexamination of failed applicants shall be determined by
5 the board.

6
7 (b) The board may waive any examination if a
8 psychologist ~~or school psychologist~~ has been licensed in
9 another jurisdiction and if the requirements for licensure
10 in that jurisdiction are equal to, or exceed, the
11 requirements for licensure in this jurisdiction.

12
13 (c) A person licensed as a psychologist or school
14 psychologist in this state on June 30, ~~1993—2007~~ shall be
15 deemed to have met all requirements for licensure under
16 this act and shall be eligible for renewal of licensure as
17 a psychologist in accordance with this act.

18
19 (e) The board may issue a temporary license to an
20 applicant who is licensed or certified by a board of
21 psychology of another United States state or territory, or
22 of a foreign county or province whose standards are
23 equivalent to or higher than the requirements for licensure
24 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 license issued as provided in 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.

(a) No person shall:

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

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

(b) Any person who represents himself as a psychologist ~~or school psychologist~~ or 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),

1 imprisonment for not more than six (6) months, or both.

2 Each violation shall constitute a separate offense.

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

11
12 **33-27-120. Grounds for denial, suspension or**
13 **revocation of license and other disciplinary sanctions.**

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

20
21 (b) The board may suspend, place on probation,
22 require remediation for a specified time to be determined
23 at the discretion of the board, restrict or revoke any
24 license to practice psychology, ~~or school psychology,~~ deny

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

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

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

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

20
21 (v) Conviction, ~~including a plea of nolo~~
22 ~~contendere, to~~ of any felony or conviction ~~or plea of nolo~~
23 ~~contendere to~~ of any crime or offense that reflects the
24 inability of the practitioner to practice with due regard

1 for the health and safety of clients or patients. A copy
2 of the conviction certified by the clerk of the court
3 entering the conviction is conclusive evidence of the
4 conviction;

5

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

8

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

12

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

16

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

20

21 (xvii) Inability to practice psychology ~~or~~
22 ~~school psychology~~ with reasonable skill and safety to
23 patients or clients by reason of illness, inebriation,
24 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
24 regulations, and such surrender and acceptance by the board

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

5
6 (g) A psychologist ~~or school psychologist~~ may request
7 in writing to the board that a restriction be placed upon
8 his license to practice. The board, in its discretion, may
9 accept a surrender or grant a request for restriction and
10 shall have the authority to attach restrictions to the
11 license to practice within this state or otherwise to
12 discipline the licensee.

13
14 (h) Subsequent to the holding of a hearing and the
15 taking of evidence by the board as provided for in this
16 section, if a majority of the board finds that a
17 psychologist ~~or school psychologist~~ is in violation of this
18 act or guilty of any of the acts, offenses or conditions as
19 enumerated by the board, the following actions may be
20 taken:

21
22 (iii) The board may impose revocation or
23 suspension of a license, but suspend enforcement thereof by
24 placing the psychologist ~~or school psychologist~~ on

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

12

13 **33-27-123. Privileged communication.**

14

15 (a) In judicial proceedings, whether civil, criminal,
16 or juvenile, in legislative and administrative proceedings,
17 and in proceedings preliminary and ancillary thereto, a
18 patient or client, or his guardian or personal
19 representative, may refuse to disclose or prevent the
20 disclosure of confidential information, including
21 information contained in administrative records,
22 communicated to a person licensed or otherwise authorized
23 to practice under this act, or to persons reasonably
24 believed by the patient or client to be so licensed, and

1 their agents, for the purpose of diagnosis, evaluation or
2 treatment of any mental or emotional condition or disorder.
3 The psychologist ~~or school psychologist~~ shall not disclose
4 any information communicated as described above in the
5 absence of an express waiver of the privilege except in the
6 following circumstances:

7
8 (iii) Where such information is necessary for
9 the psychologist ~~or school psychologist~~ to defend against a
10 malpractice action brought by the patient or client;

11
12 (iv) Where an immediate threat of physical
13 violence against a readily identifiable victim is disclosed
14 to the psychologist; ~~or school psychologist,~~

15
16 (v) In the context of civil commitment
17 proceedings, where an immediate threat of self-inflicted
18 damage is disclosed to the psychologist; ~~or school~~
19 ~~psychologist,~~

20
21 **Section 2.** W.S. 33-27-113(a)(iii)(A) through (D),
22 (vii) and (ix) and 33-27-114(b) are repealed.

