WEST VIRGINIA CODE CHAPTER 30 ARTICLE 21

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§30-21-1. Legislative findings and declaration of public policy.

The Legislature of the State of West Virginia hereby determines and finds that in the public interest persons should not engage in the practice of psychology in this state without the requisite experience and training and without adequate regulation and control; and that there is presently no adequate means to protect the interests of the citizens of this state from the unauthorized, unqualified and unregulated practice of psychology. It is therefore declared to be the public policy of this state that the practice of psychology affects the general welfare and public interest of the state and its citizens; that persons without the necessary qualifications, training and education, and persons not of good character should not engage in the practice of psychology; and that the evils of such unauthorized and unqualified practice may be best prevented and the interest of the public best served by regulating and controlling such practice as provided in this article.

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§30-21-2. Definitions.

Unless the context in which used clearly requires a different meaning, as used in this article:

(a) "Applicant" means any person making application for an original or renewal license or a temporary permit under the provisions of this article.

(b) "Licensee" means any person holding a license or a temporary permit issued under the provisions of this article.

(c) "Board" means the board of examiners of psychologists created by this article.

(d) "Psychology" means the science involving the principles, methods and procedures of understanding, predicting and influencing behavior; the principles pertaining to learning, perception, motivation, thinking, emotions and interpersonal relationships; the methods and procedures of interviewing and counseling; the methods and procedures of psychotherapy, meaning the use of learning, conditioning methods and emotional reactions, in a professional relationship, to assist a person or persons to modify feelings, attitudes and behavior, which are intellectually, socially or emotionally maladjustive or ineffectual; the constructing, administering and interpreting of tests of intelligence, special abilities, aptitudes, interests, attitudes, personality characteristics, emotions and motivation; the psychological evaluation, prevention and improvements of adjustment problems of individuals and groups; and the resolution of interpersonal and social conflicts.

(e) "Practice of psychology" means the rendering or offering to render for a fee, salary or other compensation, monetary or otherwise, any psychological service involving: (i) The application of the principles, methods and procedures of understanding, predicting and influencing behavior; (ii) the application of the principles pertaining to learning, perception, motivation, thinking, emotions and interpersonal relationships; (iii) the application of the methods and procedures of interviewing and counseling; (iv) the application of the methods and procedures of psychotherapy, meaning the use of learning, conditioning methods and emotional reactions, in a professional relationship, to assist a person or persons to modify feelings, attitudes and behavior, which are intellectually, socially or emotionally maladjustive or ineffectual; (v) the constructing, administering and interpreting of tests of intelligence, special abilities, aptitudes, interests, attitudes, personality characteristics, emotions and motivation; (vi) the psychological evaluation, prevention and improvement of adjustment problems of individuals and groups; and (vii) the resolution of interpersonal and social conflicts.

However, for the purpose of this article, the term "practice of psychology" shall not include:

(1) Teaching, lecturing or engaging in research in psychology as part of salaried employment at an institution of higher learning;

(2) The official duties of a person employed as a psychologist by the State of West Virginia or

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any of its departments, agencies, divisions or bureaus, or local governments, except for the West Virginia Department of Education, a county board of education, or a regional education agency, which duties are performed under the direct and regular supervision of a licensee;

(3) The official duties of a person employed as a psychologist by any department, agency, division or bureau of the United States of America;

(4) The official duties of a person working under the direct and regular supervision of a licensee for the purpose of gaining the experience required for a license hereunder by the provisions of subdivision (4), subsection (a), section seven of this article, which experience is of a type approved by the board;

(5) The use, in good faith, of certain psychological techniques, procedures, methods and principles as an incident to engaging in a recognized occupation or profession, other than the practice of psychology, including, but not limited to, the occupation or profession of a physician, lawyer, dentist, social worker, sociologist, political scientist, economist, probation or parole officer, rehabilitation or marriage counselor, clergyman, audiologist, speech pathologist, teacher, educational or guidance counselor and a placement or personnel director;

(6) The activities of a student of psychology, psychological intern or psychological resident, which activities are a part of and are engaged in pursuant to a course of study at an institution of higher learning; or

(7) The activities of an assistant or technician which are performed under the direct and regular supervision of a licensee.

(f) "Examination" means the examination in psychology required by subdivision (5), subsection (a), section seven of this article.

(g) "School psychological services" means the activities which school psychologists may engage in to promote mental health and to facilitate the education of school age children, which include, but are not limited to, the following:

(A) Consultation, which includes collaboration with individuals and groups of school personnel, parents, families and representatives of community agencies;

(B) Psychological and psychoeducational assessment, which includes the gathering, interpreting and communicating of information derived from the assessment process which relates to learning and behavior;

(C) Intervention, which includes individual and group counseling, behavioral intervention and crisis intervention;

(D) Education, which includes parent training, school inservice and community education;

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(E) Facilitation, which includes assisting in developing useful communication between diverse groups of people separated by institutional, bureaucratic, educational or other barriers;

(F) Research, which includes designing, reporting and utilizing the results of research of a psychological nature;

(G) Program planning and evaluation, which includes program development, program implementation, program evaluation and problem solving for organizational decision making;

(H) Supervision, which includes the supervision of intern school psychologists, other school psychologists and personnel contracted to provide either psychological or psychoeducational assessment data;

However, for the purpose of this article, the term "practice of school psychology" shall not include:

(1) The activities of clinical, counseling, child, industrial, health, and other types of psychology which the board determines to be outside the scope of school psychology activities;

(2) Teaching, lecturing or engaging in research in school psychology as part of salaried employment at an institution of higher learning;

(3) The official duties of a person employed as a school psychologist by the State of West Virginia or any of its departments, agencies, divisions or bureaus, or local governments, except for the West Virginia Department of Education, a county board of education, or a regional education service agency, which duties are performed under the direct and regular supervision of a licensee;

(4) The official duties of a person employed as a school psychologist by any department, agency, division or bureau of the United States of America;

(5) The official duties of a school psychologist working under the direct and regular supervision of a licensee for the purpose of gaining the experience required for a license hereunder by the provisions of subdivision (4), subsection (a), section seven of this article, which experience is of a type approved by the board;

(6) The use, in good faith, of certain psychological techniques, procedures, methods and principles as an incident to engaging in a recognized occupation or profession, other than the practice of school psychology, including, but not limited to, the occupation or profession of a physician, lawyer, dentist, social worker, sociologist, political scientist, economist, probation or parole officer, rehabilitation or marriage counselor, clergyman, audiologist, speech pathologist, teacher, educational or guidance counselor and placement or personnel director;

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(7) The activities of a student of school psychology, school psychological intern or extern, which activities are a part of and are engaged in pursuant to a course of study at an institution of higher learning;

(8) The activities of an assistant or technician which are performed under the direct and regular supervision of a licensee.

(h) "Practice of school psychology" means the rendering or offering to render for a fee, salary or other compensation to an individual or to the public school psychological services as defined in this article;

(i) "School psychologist" means any person who proposes to provide school psychological services as defined herein, to the public and in so doing claims to have the knowledge, training, expertise and ethical standards necessary to engage in such practice;

(j) "School board" means a West Virginia county school board and also means the West Virginia Department of Education, or a regional educational service agency;

(k) "School board employee" means any person who provides services for the school board and is reimbursed via a salary and benefits and who has met the educational requirements under the state law and regulations of the West Virginia Board of Education to be certified or otherwise empowered by the State Superintendent of Schools to provide school psychological services for school boards;

(l) "School board contractee" means any person who provides services for one or more school boards and is reimbursed on a per evaluation, per unit of service, or some other contract basis;

(m) "School psychologist resident" means a school psychologist who provides school psychology services on a school board property and is a school board employee;

(n) "Licensed school psychologist" means a school psychologist who provides school psychology services on school board property and is a school board employee or contractee;

(o) "Licensed school psychologist independent practitioners" means a school psychologist who provides school psychology services to an individual or the public on school board or nonschool board property, and provide such services for a fee or other compensation, or as a school board employee or contractee.

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§30-21-3. License required; firms, associations and corporations engaging in the practice of psychology.

(a) No person shall engage in, offer to engage in, or hold himself or herself out to the public as being engaged in, the practice of psychology in this state, nor shall any person use in connection with any trade, business, profession or occupation, except in those instances specifically excluded from the definition of the practice of psychology by subparagraphs (1), (2), (3), (4) and (6), subdivision (e), section two of this article, the word "psychologist," "psychology," "psychological" or any other title, word or abbreviation which induces or tends to induce the belief that such person is qualified to engage or is engaged in the practice of psychology, unless and until he or she shall first obtain a license or temporary permit to engage in the practice of psychology in accordance with the provisions of this article, which license or temporary permit remains unexpired, unsuspended and unrevoked: Provided, That such license or temporary permit shall not be required for an individual who is the holder of a school psychology certificate or permit issued by the West Virginia Department of Education and who is engaged in the practice of school psychology solely within the scope of employment as a school board employee: Provided, however, That no such license or temporary permit shall be required for a psychologist who is not a resident of this state, who is the holder of a license or certificate to engage in the practice of psychology issued by a state with licensing or certification requirements determined by the board to be at least as great as those provided in this article, who has no regular place of practice in this state and who engages in the practice of psychology in this state for a period of not more than ten days in any calendar year.

(b) No firm, association or corporation shall, except through a licensee or licensees, render any service or engage in any activity which if rendered or engaged in by any individual would constitute the practice of psychology.

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§30-21-4. Duties of licensee; construction of article.

(a) It shall be the duty of a licensee when entering into any psychologist-client relationship to assist his client in obtaining professional help for all aspects of his problem which fall outside the boundaries of the licensee's competence. It shall also be the duty of a licensee to encourage his client to make provision for the medical diagnosis and treatment of relevant medical problems and, whenever indicated, to make referral to or seek consultation with medical specialists.

(b) Nothing in this article shall be construed as permitting the administering or prescribing of drugs or as infringing upon the practice of medicine and surgery.

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§30-21-5. Creation of board of examiners of psychologists; members, terms, meetings, officers, oath and compensation; general provisions.

(a) There is hereby created the state board of examiners of psychologists which shall be composed of five members appointed by the Governor by and with the advice and consent of the Senate. Each member shall have been actively engaged in the practice of psychology or in the teaching of psychology in the State of West Virginia for at least two years immediately preceding his appointment and shall be the holder of a license under the provisions of this article, or, in the case of the members first appointed, shall be eligible for such a license: Provided, That at least one member of the board shall be a licensed school psychologist.

(b) The members of the board shall be appointed for overlapping terms of three years each and until their respective successors have been appointed and have qualified, except for the original appointments. For the purpose of original appointments, two members shall be appointed for a term of three years and until their successors have been appointed and have qualified, two members shall be appointed for a term of two years and until their successors have been appointed and have qualified and one member shall be appointed for a term of one year and until his successor has been appointed and has qualified. Members may be reappointed for any number of terms. Before entering upon the performance of his duties, each member shall take and subscribe to the oath required by section five, article four of the Constitution of this state. Vacancies shall be filled by appointment by the Governor for the unexpired term of the member whose office shall be vacant and such appointment shall be made within sixty days of the occurrence of such vacancy. Any member may be removed by the Governor in case of incompetency, neglect of duty, gross immorality or malfeasance in office.

(c) The board shall elect from its membership a chairman and secretary who shall serve at the will and pleasure of the board. A majority of the members of the board shall constitute a quorum and meetings shall be held at the call of the chairman or upon the written request of three members at such time and place as designated in such call or request, and, in any event, the board shall meet at least once annually to conduct the examination hereinafter provided for and to transact such other business as may come before it. Members may be paid such reasonable compensation as the board may from time to time determine, and in addition may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties, which compensation and expenses shall be paid in accordance with the provisions of subsection (b), section six of this article.

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§30-21-6. Powers and duties of board; funds of board.

(a) The board shall:

(1) Examine applicants and determine their eligibility for a license or temporary permit to engage in the practice of psychology;

(2) Examine applicants and determine their eligibility for a license or temporary permit to engage in the practice of school psychology as a licensed school psychologist and/or licensed school psychologist independent practitioner.

(3) Prepare, conduct and grade an apt and proper written, oral or written and oral examination of applicants for a license and determine the satisfactory passing score thereon;

(4) Promulgate reasonable rules and regulations implementing the provisions of this article and the powers and duties conferred upon the board hereby, including, but not limited to, reasonable rules and regulations establishing standards to insure the proper supervision of all persons working under the direct and regular supervision of a licensee under the provisions of this article, all of which reasonable rules and regulations shall be promulgated in accordance with the provisions of article three, chapter twenty-nine-a of this code, set reasonable fees and record them in legislative rules, Title 17, Series 1.

(5) Issue, renew, deny, suspend or revoke licenses and temporary permits to engage in the practice of psychology in accordance with the provisions of this article and, in accordance with the administrative procedures hereinafter provided, may review, affirm, reverse, vacate or modify its order with respect to any such denial, suspension or revocation;

(6) Investigate alleged violations of the provisions of this article, reasonable rules and regulations promulgated hereunder and orders and final decisions of the board and take appropriate disciplinary action against any licensee for the violation thereof or institute appropriate legal action for the enforcement of the provisions of this article, reasonable rules and regulations promulgated hereunder and orders and final decisions of the board or take such disciplinary action and institute such legal action;

(7) Employ, direct, discharge and define the duties of full or part-time professional, clerical or other personnel necessary to effectuate the provisions of this article;

(8) Keep accurate and complete records of its proceedings, certify the same as may be appropriate, and prepare, from time to time, a list showing the names and addresses of all licensees;

(9) Whenever it deems it appropriate, confer with the Attorney General or his assistants in connection with all legal matters and questions; and

(10) Take such other action as may be reasonably necessary or appropriate to effectuate the provisions of this article.

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(b) All moneys paid to the board shall be accepted by a person designated by the board and deposited by him with the treasurer of the state and credited to an account to be known as the "board of examiners of psychologists fund." All of the reasonable compensation of the members of the board, the reimbursement of all reasonable and necessary expenses actually incurred by such members and all other costs and expenses incurred by the board in the administration of this article shall be paid from such fund, and no part of the state's General Revenue Fund shall be expended for this purpose.

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§30-21-7. Qualifications of applicants; exceptions; applications; fee.

(a) To be eligible for a license to engage in the practice of psychology, the applicant must:

(1) Be at least eighteen years of age;

(2) Be of good moral character;

(3) Be a holder of a doctor of philosophy degree or its equivalent or a master's degree in psychology from an accredited institution of higher learning, with adequate course study at such institution in psychology, the adequacy of any such course study to be determined by the board;

(4) When the degree held is a doctor of philosophy degree or its equivalent, at least one thousand and eight hundred hours must be a predoctoral internship in the performance of any of the psychological services described in subdivision (e), section two of this article, including those activities excluded from the definition of the term "practice of psychology" in said subdivision (e), and, when the degree held is a master's degree, have at least five years' experience subsequent to receiving said degree in the performance of any of the psychological services described in said subdivision (e), including those activities excluded from the definition of the term "practice of psychology" in said subdivision (e);

(5) Have passed the examination prescribed by the board, which examination shall cover the basic subject matter of psychology and psychological skills and techniques;

(6) Not have been convicted of a felony or crime involving moral turpitude; and

(7) Not, within the next preceding six months, have taken and failed to pass the examination required by subdivision (5), subsection (a) of this section.

(b) The following persons shall be eligible for a license to engage in the practice of psychology without examination:

(1) Any applicant who holds a doctor of philosophy degree or its equivalent from an institution of higher learning, with adequate course study at such institution in psychology and who is a diplomate of the "American Board of Examiners in Professional Psychology"; and

(2) Any person who holds a license or certificate to engage in the practice of psychology issued by any other state, the requirements for which license or certificate are found by the board to be at least as great as those provided in this article.

(c) Any person who is engaged in the practice of psychology in this state, or is engaged in any of the activities described in subdivision (e), (1), (2) or (3), section two of this article, in this state, on the effective date of this article and has been so engaged for a period of two consecutive years immediately prior thereto shall be eligible for a license to engage in the

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practice of psychology without examination and without meeting the requirements of subdivision (4), subsection (a) of this section, if application for such license is made within six months after the effective date of this article and if such person meets the requirements of subdivisions (1), (2), (3) and (6), subsection (a) of this section: Provided, That an equivalent of a master's degree in psychology may be considered by the board, only for the purpose of this subsection (c), as meeting the requirements of subdivision (3), subsection (a) of this section.

(d) Any applicant for any such license shall submit an application therefor at such time (subject to the time limitation set forth in subsection (c) of this section), in such manner, on such forms and containing such information as the board may from time to time by reasonable rule and regulation prescribe, and pay to the board an application fee.

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§30-21-7a. Eligibility for school psychologist resident.

(a) To qualify as a school psychologist resident the applicant must have obtained a master's degree in school psychology from a board approved graduate program within a board approved institution of higher education.

(b) If such individuals are employed by school board(s) to practice school psychology, they may, within sixty days of the initiation of their employment, register with the board and pay a reasonable fee.

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§30-21-7b. Eligibility for licensed school psychologist.

To meet minimum requirements for this license the applicant must:

(1) Have obtained a valid certificate of school psychology granted by the State Superintendent of Schools, have obtained a certificate of advanced study in school psychology and obtained a master's degree in school psychology from a board-approved institution of higher education, or have received equivalent training as determined by the board;

(2) Have completed at least three academic years of supervised experience in school psychology which includes a one year post degree internship or externship towards completion of the requirements for a certificate of advance study in school psychology or similar designation approved by the board: Provided, That such supervised experience shall include at least one face to face meeting between the supervisor and supervisee per month.

(3) Have passed a standardized national examination in school psychology promulgated by the National Association of School Psychologists or other similar organizations and approved as a standardized testing vehicle for school psychologists by the board;

(4) Have passed an oral examination conducted by the board; and

(5) Complete appropriate application and other forms, provide evidence of credentials, and pay appropriate fees as determined by the board.

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§30-21-7c. Eligibility for licensed school psychologist independent practitioner.

(1) Such applicants shall meet all the minimum requirements for eligibility as a licensed school psychologist;

(2) Complete an additional two years of board approved supervision by a licensed school psychologist; and

(3) Pass an oral examination conducted by the board.

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§30-21-7d. Eligibility for current school psychologist.

(1) Any person who holds a current certificate of advanced study and has the equivalent of three academic years experience in school psychology or any licensed psychologist who has been approved by the state Department of Education on the effective date of this section shall not be required to comply with the provisions of section seven-b, article twenty-one, chapter thirty of this code. Such persons shall submit appropriate documentation of credentials to the board, application form, and pay an application fee: Provided, That such applicants pass an oral exam given by the board of psychology.

(2) Such persons seeking eligibility as a licensed school psychologist independent practitioner must meet the provisions of section seven-b of this article, must have completed the equivalency of two years supervised experience and shall complete an oral examination before the board, submit required documentation, pay appropriate fees and complete additional supervision and training requirements as determined by the board. Applicants seeking eligibility pursuant to this section must make application on or before July 1, 1992.

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§30-21-7e. Eligibility of doctoral applicants.

Applicants with a doctorate of philosophy degree or its equivalent who apply for licensure as a school psychologist must complete one year of board-approved supervision or two years of such supervision if they have not had an internship, pass a standardized national examination in school psychology as defined in subdivision (3), section seven-b of this article, pass an oral examination given by the board, and pay appropriate fees.

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§30-21-8. Issuance of license; renewal of license; renewal fee; display of license.

(a) The board shall issue a license to engage in the practice of psychology to those persons who meet the requirements of this article.

(b) The license shall be valid for a period of two years from the date issued and may be renewed for a period of two years without examination upon application for renewal on a form prescribed by the board and payment to the board of a reasonable renewal fee to be set by the board by legislative rule: Provided, That the board may deny an application for renewal for any reason which would justify the denial of an original application for a license.

(c) The board shall prescribe the form of licenses and each license shall be conspicuously displayed by the licensee at his principal place of practice.

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§30-21-8a. Issuance of license; renewal of license; renewal fee; display of license.

On and after July 1, 1991 and thereafter, whenever the board finds that applicants meet all of the requirements of this article for a license to engage in the practice of school psychology, it shall forthwith issue to them such licenses; and otherwise the board shall deny the same. The license shall be valid for a period of three years from the date issued and may be renewed for a period of three years without examination upon application for renewal on a form prescribed by the board and payment to the board of a renewal fees: Provided, That the board may deny an application for renewal for any reason which would justify the denial of an original application for a license. The board shall prescribe the form of licenses and each license shall be conspicuously displayed by the licensee at the licensee's principal place of practice.

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§30-21-9. Temporary permits.

(a) Upon proper application, the board may issue, without examination, a temporary permit to engage in the practice of psychology in this state:

(1) Pending examination, to an applicant who meets the qualifications of subdivisions (1), (2), (3), (4), (6) and (7), subsection (a), section seven of this article, which temporary permit shall expire thirty days after the board gives written notice of the results of the examination held next following the issuance of such temporary permit and such permit may not be renewed nor may another permit be issued to the same person; and

(2) To a psychologist who is not a resident of this state and who meets the requirements of subdivisions (1), (2), (3), (4), (6) and (7), subsection (a), section seven of this article, which temporary permit shall be valid only for a period of ninety days in the calendar year in which issued, and such permit may not be renewed nor may another permit be issued to the same person in the same calendar year.

(b) The fee for any temporary permit shall be set by the board by legislative rule.

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§30-21-10. Suspension or revocation of license or temporary permit.

(a) The board may at any time upon its own motion and shall upon the verified written complaint of any person conduct an investigation to determine whether there are any grounds for the suspension or revocation of a license or temporary permit issued under the provisions of this article.

(b) The board shall suspend or revoke any license or temporary permit when it finds the holder thereof has:

(1) Been convicted of a felony or other crime involving moral turpitude;

(2) Obtained a license or temporary permit by means of fraud or deceit;

(3) Been incompetent, grossly negligent, or guilty of other malpractice as defined by the board by reasonable rules and regulations; or

(4) Failed or refused to comply with the provisions of this article or any reasonable rule and regulation promulgated by the board hereunder or any order or final decision of the board.

(c) The board shall also suspend or revoke any license or temporary permit if it finds the existence of any grounds which would justify the denial of an application for such license or temporary permit if application were then being made for it.

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§30-21-10a. Rulemaking.

(a) The board may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to provide for:

(1) Licensure requirements, including requirements for applications, examinations, reciprocity, temporary permits and reinstatement;

(2) Fees for licenses, renewals of licenses and other services provided by the board;

(3) Experience, education and continuing education requirements and approval of courses; and

(4) Any other purpose to carry out the requirements of this article.

(b) Any rules in effect as of the passage of this article will remain in effect until amended, modified, repealed or replaced.

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§30-21-11. Procedures for hearing.

(a) Whenever the board shall deny an application for any original or renewal license or deny an application for a temporary permit or shall suspend or revoke any license or temporary permit, it shall make and enter an order to that effect and serve a copy thereof on the applicant or licensee, as the case may be, by certified mail, return receipt requested. Such order shall state the grounds for the action taken and shall require that any license or temporary permit suspended or revoked thereby shall be returned to the board by the holder within twenty days after receipt of said copy of said order.

(b) Any person adversely affected by any such order shall be entitled to a hearing thereon (as to all issues not excluded from the definition of a "contested case" as set forth in article one, chapter twenty-nine-a of this code) if, within twenty days after receipt of a copy thereof, he files with the board a written demand for such hearing. A demand for hearing shall operate automatically to stay or suspend the execution of any order suspending or revoking a license or temporary permit or denying an application for a renewal license. The board may require the person demanding such hearing to give reasonable security for the costs thereof and if such person does not substantially prevail at such hearing such costs shall be assessed against him and may be collected by an action at law or other proper remedy.

(c) Upon receipt of a written demand for such hearing, the board shall set a time and place therefor not less than ten and not more than thirty days thereafter. Any scheduled hearing may be continued by the board upon its own motion or for good cause shown by the person demanding the hearing.

(d) All of the pertinent provisions of article five, chapter twenty-nine-a of this code shall apply to and govern the hearing and the administrative procedures in connection with and following such hearing, with like effect as if the provisions of said article five were set forth in this subsection.

(e) Any such hearing shall be conducted by a quorum of the board. For the purpose of conducting any such hearing any member of the board shall have the power and authority to issue subpoenas and subpoenas duces tecum which shall be issued and served within the time, for the fees and shall be enforced, as specified in section one, article five of said chapter twenty- nine-a, and all of the said section one provisions dealing with subpoenas and subpoenas duces tecum shall apply to subpoenas and subpoenas duces tecum issued for the purpose of a hearing hereunder.

(f) At any such hearing the person who demanded the same may represent himself to be represented by an attorney at law admitted to practice before any circuit court of this state. Upon request by the board, it shall be represented at any such hearing by the Attorney General or his assistants without additional compensation.

(g) After any such hearing and consideration of all of the testimony, evidence and record in the case, the board shall render its decision in writing. The written decision of the board

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shall be accompanied by findings of fact and conclusions of law as specified in section three, article five, chapter twenty- nine-a of this code, and a copy of such decision and accompanying findings and conclusions shall be served by certified mail, return receipt requested, upon the person demanding such hearing, and his attorney of record, if any.

(h) The decision of the board shall be final unless reversed, vacated or modified upon judicial review thereof in accordance with the provisions of section twelve of this article.

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§30-21-12. Judicial review; appeal to Supreme Court of Appeals; legal representation for board.

Any person adversely affected by a decision of the board rendered after a hearing held in accordance with the provisions of section eleven of this article shall be entitled to judicial review thereof. All of the pertinent provisions of section four, article five, chapter twenty-nine-a of this code shall apply to and govern such judicial review with like effect as if the provisions of said section four were set forth in this section.

The judgment of the circuit court shall be final unless reversed, vacated or modified on appeal to the Supreme Court of Appeals in accordance with the provisions of section one, article six, chapter twenty-nine-a of this code.

Legal counsel and services for the board in all appeal proceedings in any circuit court and the Supreme Court of Appeals shall be provided by the Attorney General or his assistants and in any circuit court by the prosecuting attorney of the county as well, all without additional compensation.

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§30-21-13. Penalties.

Any person who violates any of the provisions of this article, any of the reasonable rules and regulations promulgated hereunder or any order or any final decision of the board shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $500, or imprisoned in the county jail not more than six months, or both fined and imprisoned.

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§30-21-14. Actions to enjoin violations.

Whenever it appears to the board that any person has been or is violating or is about to violate any provision of this article, any reasonable rule and regulation promulgated hereunder or any order or final decision of the board, the board may apply in the name of the state to the circuit court of the county in which the violation or violations or any part thereof has occurred, is occurring or is about to occur, or the judge thereof in vacation, for an injunction against such person and any other persons who have been, are or are about to be, involved in any practices, acts or omissions, so in violation, enjoining such person or persons from any such violation or violations. Such application may be made and prosecuted to conclusion whether or not any such violation or violations have resulted or shall result in prosecution or conviction under the provisions of section thirteen of this article.

Upon application by the board, the circuit courts of this state may by mandatory or prohibitory injunction compel compliance with the provisions of this article, the reasonable rules and regulations promulgated hereunder and all orders and final decisions of the board. The court may issue a temporary injunction in any case pending a decision on the merits of any application filed.

The judgment of the circuit court upon any application permitted by the provisions of this section shall be final unless reversed, vacated or modified on appeal to the Supreme Court of Appeals. Any such appeal shall be sought in the manner and within the time provided by law for appeals from circuit courts in other civil actions.

The board shall be represented in all such proceedings by the Attorney General or his assistants and in such proceedings in the circuit court by the prosecuting attorneys of the several counties as well, all without additional compensation.

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§30-21-15. Severability.

If any provision of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the article, and to this end the provisions of this article are declared to be severable.

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§30-21-16.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

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§30-21-17. Special volunteer psychologists license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer psychologists license for psychologists retired or retiring from the active practice of psychology who wish to donate their expertise for the psychological care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer psychologist license shall be issued by the West Virginia Board of Examiners of Psychologists to psychologists licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the psychologist's acknowledgment that:

(1) The psychologist's practice under the special volunteer psychologists license will be exclusively devoted to providing psychological care to needy and indigent persons in West Virginia;

(2) The psychologist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any psychological services rendered under the special volunteer psychological license;

(3) The psychologist will supply any supporting documentation that the board may reasonably require; and

(4) The psychologist agrees to continue to participate in continuing education as required by the board for a special volunteer psychologists license.

(b) Any person engaged in the active practice of psychology in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the psychologist's office or the clinical setting.

(c) Any psychologist who renders any psychological service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer psychologist license authorized under subsection (a) of this section without payment or compensation or the expectation or promise of payment or compensation, is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the psychological service at the clinic unless the act or omission was the result of the psychologist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the psychologist and the clinic pursuant to which the psychologist will provide voluntary

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uncompensated psychological services under the control of the clinic to patients of the clinic before the rendering of any services by the psychologists at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.

(d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a psychologist rendering voluntary psychological services at or for the clinic under a special volunteer psychological license authorized under subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure as listed in section seven of this article and in the legislative rules promulgated thereunder, except the fee requirements of subsection (d) of that section and of the legislative rules promulgated by the board relating to fees.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer psychologist license to any psychologist whose license is or has been subject to any disciplinary action or to any psychologist who has surrendered a psychologist license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a psychologist license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a psychologist license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any psychologist covered under the provisions of this article, shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a psychologist who holds a special volunteer psychologist license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

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