WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1970

ENROLLED

HOUSE BILL No. 524

(By Mr. [Signature] and Mr. Nelson
"of Clarks"

PASSED Feb. 11, 1970

in Effect Ninety days from Passage

524

FILED IN THE OFFICE
JOHN O. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 2-18-70
ENROLLED

House Bill No. 524
(By Mr. Daugherty and Mr. Nelson (of Cabell))

[Passed February 11, 1970; in effect ninety days from passage.]

AN ACT to amend chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-one, relating to the practice of psychology; providing for the licensing of persons engaging in the practice of psychology; providing a legislative finding, a declaration of public policy and definitions; relating to the circumstances under which a firm, association or corporation may engage in the practice of psychology; providing certain duties of licensees; providing for construction of article; creating the board of examiners of psychologists; relating to the qualifications, terms, oath and compensation of members of said board; providing for meetings of said board;
specifying the powers and duties of said board; relating to the receipt and disbursement of funds by said board; establishing qualifications for the issuance of a license or temporary permit to engage in the practice of psychology; providing exceptions; providing for applications for and the issuance of licenses and temporary permits, renewals thereof and fees therefor; authorizing the board to suspend or revoke a license or temporary permit and establishing the grounds therefor; authorizing said board to hold hearings; providing a time and place for such hearings; expressly providing that the provisions of chapter twenty-nine-a of the code shall govern such hearings; authorizing the board to issue subpoenas and subpoenas duces tecum in connection with such hearings; providing an automatic stay or suspension of certain orders of the board pending such hearings; relating to the costs for such hearings; providing for judicial review of decisions of the board entered following such hearings; providing for appeals to the supreme court of appeals; providing for legal counsel for the board; establishing criminal
penalties; providing for injunctive relief; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-one, to read as follows:

ARTICLE 21. PSYCHOLOGISTS.

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

1 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, train-
ing 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 prac-
tice may be best prevented and the interest of the public
best served by regulating and controlling such practice
as provided in this article.

§30-21-2. Definitions.

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

3 (a) “Applicant” means any person making applica-
4 tion for an original or renewal license or a temporary
5 permit under the provisions of this article.

6 (b) “Licensee” means any person holding a license
7 or a temporary permit issued under the provisions of
8 this article.

9 (c) “Board” means the board of examiners of psy-
10 chologists created by this article.

11 (d) “Psychology” means the science involving the
12 principles, methods and procedures of understanding,
13 predicting and influencing behavior; the principles per-
14 taining to learning, perception, motivation, thinking,
15 emotions and interpersonal relationships; the methods
16 and procedures of interviewing and counseling; the
17 methods and procedures of psychotherapy, meaning the
18 use of learning, conditioning methods and emotional
19 reactions, in a professional relationship, to assist a person
20 or persons to modify feelings, attitudes and behavior,
21 which are intellectually, socially or emotionally mal-
22 adjustive or ineffectual; the constructing, administering
23 and interpreting of tests of intelligence, special abilities,
24 aptitudes, interests, attitudes, personality characteristics,
25 emotions and motivation; the psychological evaluation,
26 prevention and improvements of adjustment problems
27 of individuals and groups; and the resolution of inter-
28 personal and social conflicts.
29 (e) "Practice of psychology" means the rendering or
30 offering to render for a fee, salary or other compensation,
31 monetary or otherwise, any psychological service in-
32 volving: (i) The application of the principles, methods
33 and procedures of understanding, predicting and influ-
34 encing behavior; (ii) the application of the principles
35 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 any of its
departments, agencies, divisions or bureaus or by county
boards of education or local governments, 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), sub-
section (a), section seven of this article, which experi-
ence 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 pro-
fession, 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,
78 rehabilitation or marriage counselor, clergyman, audi-
79 ologist, speech pathologist, teacher, educational or
80 guidance counselor and a placement or personnel direc-
81 tor;
82 (6) The activities of a student of psychology, psy-
83 chological intern or psychological resident, which activi-
84 ties are a part of and are engaged in pursuant to a course
85 of study at an institution of higher learning; or
86 (7) The activities of an assistant or technician which
87 are performed under the direct and regular supervision
88 of a licensee.
89 (f) “Examination” means the examination in psy-
90 chology required by subdivision (5), subsection (a),
91 section seven of this article.

§30-21-3. License required; firms, associations and corporations
engaging in the practice of psychology.
1 (a) No person shall engage in, offer to engage in,
2 or hold himself out to the public as being engaged in,
3 the practice of psychology in this state, nor shall any
4 person use in connection with any trade, business, pro-
5 fession or occupation, except in those instances specifi-
6 cally excluded from the definition of the practice of
7 psychology by subparagraphs (1), (2), (3), (4) and
8 (6), subdivision (e), section two of this article, the
9 word "psychologist," "psychology," "psychological" or
10 any other title, word or abbreviation which induces or
11 tends to induce the belief that such person is qualified
12 to engage or is engaged in the practice of psychology,
13 unless and until he shall first obtain a license or tempo-
14 rary permit to engage in the practice of psychology in
15 accordance with the provisions of this article, which
16 license or temporary permit remains unexpired, un-
17 suspended and unrevoked: Provided, That no such license
18 or temporary permit shall be required for a psycholo-
19 gist who is not a resident of this state, who is the
20 holder of a license or certificate to engage in the prac-
21 tice of psychology issued by a state with licensing or
22 certification requirements determined by the board to
23 be at least as great as those provided in this article, who
24 has no regular place of practice in this state and who
25 engages in the practice of psychology in this state for
26 a period of not more than ten days in any calendar
27 year.
28 (b) No firm, association or corporation shall, except
29 through a licensee or licensees, render any service or
30 engage in any activity which if rendered or engaged in
31 by any individual would constitute the practice of psy-
32 chology.

§30-21-4. Duties of licensee; construction of article.
1 (a) It shall be the duty of a licensee when entering
2 into any psychologist-client relationship to assist his
3 client in obtaining professional help for all aspects of
4 his problem which fall outside the boundaries of the
5 licensee's competence. It shall also be the duty of a
6 licensee to encourage his client to make provision for
7 the medical diagnosis and treatment of relevant medical
8 problems and, whenever indicated, to make referral to
9 or seek consultation with medical specialists.
10 (b) Nothing in this article shall be construed as per-
11mitting the administering or prescribing of drugs or as
12 infringing upon the practice of medicine and surgery.
§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.

(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 of 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 succes-
sors have been appointed and have qualified and one mem-
ber shall be appointed for a term of one year and until
his successor has been appointed and has qualified. Mem-
ers may be reappointed for any number of terms. Before
entering upon the performance of his duties, each mem-
ber shall take and subscribe to the oath required by sec-
tion 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 trans-
act such other business as may come before it. Mem-
bers may be paid such reasonable compensation as the
board may from time to time determine, and in addi-
tion may be reimbursed for all reasonable and neces-
sary 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.

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

1 (a) The board shall:
2   (1) Examine applicants and determine their eligi-
3   bility for a license or temporary permit to engage in
4   the practice of psychology;
5   (2) Prepare, conduct and grade an apt and proper
6   written, oral or written and oral examination of appli-
7   cants for a license and determine the satisfactory passing
8   score thereon;
9   (3) Promulgate reasonable rules and regulations
10  implementing the provisions of this article and the pow-
11  ers 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;

(4) 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;

(5) 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;

(6) 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;

(7) 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;

(8) Whenever it deems it appropriate, confer with the attorney general or his assistants in connection with all legal matters and questions; and

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

(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.

§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 twenty-one 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, have at least two-years' experience subsequent to receiving said degree 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 eight-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 certificates 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 subparagraph (1), (2), or (3), subdivision (e), 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 practice of psychology without exami-
nation 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 subdivision (1), (2), (3) and (6), 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 a license fee of fifteen dollars, which fee shall be returned to the applicant if he is denied a license.

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

1 Whenever the board finds that an applicant meets all of the requirements of this article for a license to engage in the practice of psychology, it shall forthwith issue to him such license; and otherwise the board shall deny the same. 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 renewal fee of ten dollars: 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 his principal place of practice.


(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 another thereof 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 another thereof issued to the same person in the same calendar year.

(b) The fee for any temporary permit shall be fifteen dollars.

§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.


(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 or 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 at-
torney general or his assistants without additional com-
pensation.

(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 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 hear-
ing, and his attorney of record, if any.
69 (h) The decision of the board shall be final unless
70 reversed, vacated or modified upon judicial review
71 thereof in accordance with the provisions of section
72 twelve of this article.

§30-21-12. Judicial review; appeal to supreme court of appeals;
legal representation for board.

1 Any person adversely affected by a decision of the
2 board rendered after a hearing held in accordance with
3 the provisions of section eleven of this article shall be
4 entitled to judicial review thereof. All of the pertinent
5 provisions of section four, article five, chapter twenty-
6 nine-a of this code shall apply to and govern such judi-
7 cial review with like effect as if the provisions of said
8 section four were set forth in this section.
9 The judgment of the circuit court shall be final unless
10 reversed, vacated or modified on appeal to the supreme
11 court of appeals in accordance with the provisions of
12 section one, article six, chapter twenty-nine-a of this
13 code.
14 Legal counsel and services for the board in all appeal
15 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.

§30-21-13. Penalties.

1. 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 five hun-
dred dollars, or imprisoned in the county jail not more
than six months, or both fined and imprisoned.

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

1. 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 promul-
gated 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 injunc-
tion 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.


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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tempar
Chairman Senate Committee

Chilton C. Davisdson
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard H. et
Clerk of the Senate

O A. Blankenship
Clerk of the House of Delegates

Lloyd D. Johnson
President of the Senate

W. F. Bundage
Speaker House of Delegates

The within approved this the 17th day of February, 1970.

Arch. Shane, Jr.
Governor
PRESENTED TO THE
GOVERNOR

Date  2/14/70
Time  2:47 p.m.