WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1991

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ENROLLED

Com. Sub. for
HOUSE BILL No. 2765

(By Mr. Del. Ashcroft)

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Passed  March 8, 1991

In Effect  90 Days From Passage
AN ACT to amend and reenact sections two, three, five, six and seven, article twenty-one, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto six new sections, designated sections seven-a, seven-b, seven-c, seven-d, seven-e and eight-a, all relating to creating new definitions relating to the practice of school psychology; providing for license exemption in certain instances; requiring the addition of at least one licensed school psychologist to the board of examiners of psychologists; adding school psychologist examination to board duties and authorizing reasonable fees thereto; removing the reference to the specific amount of the application fee; creating eligibility requirements for certain levels of licensed school psychologists; addressing eligibility of school psychologists currently certified by the state board; defining eligibility of certain doctoral applicants; and specifying provisions for license renewal.

Be it enacted by the Legislature of West Virginia:

That sections two, three, five, six and seven, article twenty-one, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and
reenacted; and that said article be further amended by adding thereto six new sections, designated sections seven-a, seven-b, seven-c, seven-d, seven-e and eight-a, all to read as follows:

ARTICLE 21. PSYCHOLOGISTS; SCHOOL PSYCHOLOGISTS.

§30-21-2. Definitions.

1 Unless the context in which used clearly requires a different meaning, as used in this article:
2
3 (a) "Applicant" means any person making application for an original or renewal license or a temporary permit under the provisions of this article.
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5 (b) "Licensee" means any person holding a license or a temporary permit issued under the provisions of this article.
6
7 (c) "Board" means the board of examiners of psychologists created by this article.

9 (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.

29 (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 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, clergymen, 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;

(E) Facilitation, which includes assisting in develop-
ing 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;

(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.

§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 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 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 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.

§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.

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

(a) The board shall:

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

(2) Examine applicants and determine their eligibil-

(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.

(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 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, have at least one year's 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 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 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 subdivi-
sion (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.

§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.

§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 psychol-
yogy 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

13 towards completion of the requirements for a certificate
14 of advance study in school psychology or similar
15 designation approved by the board: Provided, That such
16 supervised experience shall include at least one face to
17 face meeting between the supervisor and supervisee per
18 month.

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

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

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

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

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

4 (2) Complete an additional two years of board ap-
5 proved supervision by a licensed school psychologist; and

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

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

1 (1) Any person who holds a current certificate of
2 advanced study and has the equivalent of three aca-
3 demic years experience in school psychology or any
4 licensed psychologist who has been approved by the
5 state department of education on the effective date of
6 this section shall not be required to comply with the
7 provisions of section seven-b, article twenty-one, chapter
8 thirty of this code. Such persons shall submit approp-
9 riate documentation of credentials to the board, appli-
10 cation form, and pay an application fee: Provided, That
11 such applicants pass an oral exam given by the board
12 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 the first day of July, one thousand nine hundred ninety-two.

§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.

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

On and after the first day of July, one thousand nine hundred ninety-one 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 fee: 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

The within is approved this the 29th day of March, 1991.

Governor