

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 1134 Session of  
1985

INTRODUCED BY BELL, PETERSON, MOORE AND REIBMAN, OCTOBER 4, 1985

SENATOR BELL, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, AS  
AMENDED, OCTOBER 23, 1985

## AN ACT

1 Amending the act of March 23, 1972 (P.L.136, No.52), entitled  
2 "An act relating to the practice of psychology, providing for  
3 licensing of psychologists, making certain acts illegal and  
4 providing penalties," reestablishing the State Board of  
5 Psychologist Examiners as the State Board of Psychologists;  
6 providing for its composition, powers and duties; changing  
7 provisions relating to the issuance of licenses and the  
8 suspension and revocation of licenses; providing for fees;  
9 providing for penalties; and making repeals.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 Section 1. Section 1 of the act of March 23, 1972 (P.L.136,  
13 No.52), referred to as the Psychologists License Act, is amended  
14 to read:

15 Section 1. Declaration of Policy.--The practice of  
16 psychology in the Commonwealth of Pennsylvania is hereby  
17 declared to affect the public safety and welfare, and to be  
18 subject to regulation and control in the public interest to  
19 protect the public from unprofessional, improper, unauthorized  
20 and unqualified practice of psychology, and from unprofessional

1 conduct by persons licensed to practice psychology. This act  
2 should be liberally construed to carry out these objects and  
3 purposes.

4 Section 2. The act is amended by adding a section to read:

5 Section 1.1. Short Title.--This act shall be known and may  
6 be cited as the "Professional Psychologists Practice Act."

7 Section 3. Sections 2 and 3 of the act are amended to read:

8 Section 2. Definitions.--As used in this act:

9 [(1)] "Board" means the [Pennsylvania] State Board of  
10 [Psychologist Examiners] Psychology in the Department of State.

11 [(2)] "Commissioner" means the Commissioner of Professional  
12 and Occupational Affairs in the Department of State.

13 "Person" means an individual, corporation, partnership,  
14 association, unincorporated organization, or a government or any  
15 political subdivision, agency or instrumentality thereof.

16 [(3)] "Practice of psychology" means [any one or more of the  
17 following:

18 Holding one's self out to the public by any title or  
19 description of services incorporating the words "psychological,"  
20 "psychologist," or "psychology," and under such description  
21 offers to render or renders to individuals, corporations,  
22 institutions, governmental agencies, or to the public for  
23 remuneration any service involving the following:

24 (i) The application of established principles of learning,  
25 motivation, perception, thinking, and emotional relationships to  
26 problems of personality evaluation, group relations, and  
27 behavior adjustment. The application of said principles  
28 includes, but is not restricted to, counseling and the use of  
29 psychological methods with persons or groups with adjustment  
30 problems in the areas of work, family, school, and personal

1 relationships; measuring and testing of personality,  
2 intelligence, aptitudes, and emotions, and offering services as  
3 a psychological consultant.

4 (ii) Performing or offering to perform any one or more of  
5 the following acts or services: (a) "Measuring and testing,"  
6 consisting of the psychological assessment and evaluation of  
7 abilities, attitudes, aptitudes, achievements, adjustments,  
8 motives, personality dynamics and/or other psychological  
9 attributes of individuals, or groups of individuals by means of  
10 standardized measurements or other methods, techniques or  
11 procedures recognized by the science and profession of  
12 psychology, (b) "psychological methods," consisting of the  
13 application of principles of learning and motivation in an  
14 interpersonal situation with the objectives of modification of  
15 perception and adjustment, and require highly developed skills  
16 in the disciplines, techniques, and methods of altering through  
17 learning processes, attitudes, feelings, values, self-concept,  
18 personal goals and adaptive patterns, (c) "psychological  
19 consulting," consisting of interpreting or reporting upon  
20 scientific fact or theory in psychology, rendering expert  
21 psychological opinion, psychological evaluation, or engaging in  
22 applied psychological research.] the delivery of professional  
23 services to individuals, families, groups and the public,  
24 regardless of setting. Such services involve the observation,  
25 description, evaluation, interpretation and modification of  
26 human behavior, and are provided by means of the application of  
27 psychological principles, methods and procedures, for the  
28 purpose of eliminating symptomatic, maladaptive or undesired  
29 behavior or the purpose of improving interpersonal  
30 relationships, work and life adjustment, personal effectiveness

1 and mental health. Further, such professional psychological  
2 services include, but are not limited to:

3 (1) psychological testing and evaluation or assessment of  
4 individual characteristics such as intelligence, personality,  
5 abilities, interests and aptitudes;

6 (2) counseling, psychotherapy, hypnosis, biofeedback  
7 techniques and behavior therapy and management;

8 (3) prevention, diagnosis and treatment of mental and  
9 emotional disorders or disabilities, alcoholism and substance  
10 abuse, and the psychological aspects of physical illness or  
11 disability;

12 (4) psychoeducational evaluation, ~~remedial~~ REMEDIATION and <—  
13 consultation; and

14 (5) psychological consultation to organizations,  
15 individuals, families and groups.

16 Section 3. [It shall be unlawful for any person to engage in  
17 the practice of psychology or to offer or attempt to do so  
18 unless he shall first have obtained a license pursuant to this  
19 act, except as hereinafter provided:] Necessity for license;

20 exempt practices; prohibited practices.--(a) No person shall  
21 represent himself or herself to the public by use of the title  
22 "psychologist" or engage in the practice of psychology unless  
23 that person complies with the provisions of this act. A person  
24 represents himself or herself to be a psychologist if that  
25 person uses any title or description of services incorporating  
26 the words "psychology" or "psychological," or other terms  
27 implying training, experience or expertise in psychology or  
28 offers to render, or renders the services defined as the  
29 practice of psychology in this act to individuals, groups,  
30 organizations, institutions or the public for compensation.

1     (b) Notwithstanding the provisions of subsection (a), the  
2     following are exempt from licensure pursuant to this act:

3         (1) Simple acts of persuasion or suggestion by one person to  
4 another, or to a group.

5         [(2) Persons licensed to practice any of the healing arts in  
6 this Commonwealth shall be exempt from the provisions of this  
7 act. Nothing in this act shall be construed to limit the  
8 practice of persons licensed to practice any of the healing arts  
9 in any way and any persons offering services under the direct  
10 supervision of such persons licensed to practice the healing  
11 arts shall be exempt. Nothing herein shall be construed as  
12 authorizing any person licensed as a psychologist to engage in  
13 any manner in the practice of any of the healing arts as defined  
14 in the laws of this Commonwealth on the effective date of this  
15 act. The psychologist who engages in practice shall assist his  
16 client in obtaining professional help for all relevant aspects  
17 of his problem that fall outside the boundaries of the  
18 psychologist's own competence. Provision must be made for the  
19 diagnosis and treatment of relevant health care problems by an  
20 appropriate qualified practitioner of the healing arts.

21         (3) Nothing in this act shall be construed to prevent  
22 qualified members of other recognized professions from doing  
23 work of a psychological nature consistent with the training and  
24 the code of ethics of their respective professions.]

25         (2) Volunteer services provided to individuals or groups in  
26 crisis or emergency situations.

27         (3) Persons licensed to practice any of the healing arts and  
28 practicing within the scope of that license or certificate as  
29 otherwise authorized by law.

30         (4) Persons who are qualified members of other recognized

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professions, INCLUDING MINISTERS, doing work of a psychological  
nature consistent with the training and code of ethics of their  
respective professions. The provisions of this clause shall  
include:

(i) Medicine as authorized by the act of July 20, 1974  
(P.L.551, No.190), known as the "Medical Practice Act of 1974."

(ii) Osteopathy as authorized by the act of October 5, 1978  
(P.L.1109, No.261), known as the "Osteopathic Medical Practice  
Act."

(iii) Professional nursing as authorized by the act of May  
22, 1951 (P.L.317, No.69), known as "The Professional Nursing  
Law.",

(iv) Chiropractic as authorized by the act of August 10,  
1951 (P.L.1182, No.264), known as the "Chiropractic Registration  
Act of 1951."

(v) Certified alcohol and drug abuse counselors certified by  
the Pennsylvania Alcohol and Drug Abuse Counselor Certification  
Board.

(vi) Certified counselors certified by the National Board  
for Certified Counselors or the National Academy of Certified  
Clinical Mental Health Counselors.

(vii) Certified social workers certified by the appropriate  
~~national certifying body.~~ ACADEMY OF CERTIFIED SOCIAL WORKERS OF  
THE NATIONAL ASSOCIATION OF SOCIAL WORKERS.

(viii) Certified marriage and family therapists certified by  
the American Association of Marriage and Family Therapy.

(ix) Certified pastoral counselors certified by the National  
Association of Pastoral Counselors.

(x) Certified rehabilitation counselors certified by the  
National Association of Rehabilitation Professionals

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1 Certification Board.

2 (xi) Certified psychoanalysts certified by the National  
3 Association for the Accreditation of Psychoanalysis or the  
4 American Psychoanalytic Association.

5 [(4)] (c) Nothing in this act shall be construed to limit  
6 the practice of psychology or use of an official title on the  
7 part of a person employed as a psychologist by a Federal, State,  
8 county, or municipal agency, or other political subdivisions, or  
9 those persons certified and employed as school psychologists in  
10 the public and private schools of the Commonwealth, in so far as  
11 such practice is a part of the normal function of his [salaried] <—  
12 position or is performed on behalf of or according to the usual  
13 expectations of his employer.

14 [(5)] (d) Nothing in this act is to be construed as  
15 restricting the use of the term "social psychologist" by any  
16 person who meets the qualifications specified in section 6.

17 [(6)] (e) Nothing in this act shall be construed to limit  
18 the practice of psychology or use of an official title on the  
19 part of a member of the faculty or staff of a duly accredited  
20 university, college, hospital or State-approved nonpublic school  
21 in so far as such practice is a part of the normal function of  
22 his [salaried] position or is performed on behalf of or  
23 according to the usual expectations of his employer. Nothing in  
24 this act shall be construed to limit the practice of psychology  
25 or use of an official title on the part of a student, intern or  
26 resident in psychology, pursuing a course of study in a duly  
27 accredited university, college or hospital or similar training  
28 facility for the qualified training of psychologists, provided  
29 that such practice and use of title constitute a part of his  
30 supervised course of study, and he is designated by such titles

1 as "psychology intern," "psychology trainee," or other title  
2 clearly indicating such training status. Nothing in this act  
3 shall be construed to limit the activities of a faculty or staff  
4 member of a duly accredited university, college, or hospital, or  
5 research unit of a duly recognized business or industrial firm  
6 or corporation, in the performance of experimental and  
7 scientific research activities for the primary purpose of  
8 contributing to or enlarging upon scientific principles of  
9 psychology. Nothing in this act shall be construed to limit the  
10 use of the term "psychology," "psychologist," or  
11 "psychological," in connection with the aforementioned  
12 experimental or scientific research activities or for the  
13 purpose of publication of the research findings in professional  
14 and scientific journals, or for the purpose of providing  
15 scientific information to any user of such information.

16 [(7)] (f) Nothing in this act shall be construed to prohibit  
17 the practice of psychology by a person who, in the opinion of  
18 the board meets the minimum qualifications for licensure under  
19 this act, provided said person is on temporary assignment in  
20 this Commonwealth, as temporary is defined by board regulation.

21 [(8)] (g) Nothing in this act shall be construed to prohibit  
22 employees of business and industrial organizations from applying  
23 the principles of psychology [described in clause (3) of section <—  
24 2] to the employment placement, evaluation, selection, promotion <—  
25 or job adjustment of their own officers or employees or those of  
26 any associated organization. No business or industrial firm or  
27 corporation may sell or offer to the public or to individuals or  
28 to other firms or corporations for remuneration any  
29 psychological acts or services as are part of the practice of  
30 psychology unless such services are performed by individuals



1 duly and appropriately licensed under this act.

2       [(9)] (h) Nothing in this act shall be construed to limit  
3 the activities of a [salaried] clerical or administrative  
4 employe in the performance of duties incidental to and necessary  
5 to the work of a psychologist, provided that the [salaried]  
6 clerical or administrative employe acts at all times under the  
7 supervision of a licensed psychologist, and provided further  
8 that the employe does not assume to the independent practice of  
9 psychology.

10       (i) Nothing herein shall be construed as authorizing any  
11 person licensed as a psychologist to engage in any manner in the  
12 practice of any of the healing arts as defined in the laws of  
13 this Commonwealth. The psychologist who engages in practice  
14 shall assist his or her client in obtaining professional help  
15 for all relevant aspects of the client's problem that fall  
16 outside the boundaries of the psychologist's own competence.

17       Section 4. The act is amended by adding sections to read:

18       Section 3.1. Permitted Relationships with Unlicensed  
19 Professionals with Graduate Training in Psychology.--(a)  
20 Individuals licensed under this act may employ and supervise  
21 postdoctoral individuals completing the experience requirement  
22 for licensure who shall be designated as "psychology interns,"  
23 "psychology residents" or "psychological trainees." Such  
24 individuals must perform their duties under the full direction,  
25 control and supervision of a licensed psychologist, pursuant to  
26 regulations of the board.

27       (b) Individuals licensed under this act may employ  
28 professional employes, with graduate training in psychology, who  
29 shall be designated as "psychology aides," "psychological  
30 assistants" or "psychological services associates" pursuant to

regulations of the board. Such individuals must perform their duties under the full direction, control and supervision of a licensed psychologist.

Section 3.2. State Board of Psychology.--(a) The State Board of Psychology shall consist of nine members who are citizens of the United States and who have been residents of this Commonwealth for a three-year period. Eight members are to be appointed by the Governor, with the advice and consent of the Senate, and the Commissioner of Professional and Occupational Affairs shall serve, ex officio, as the ninth member of the board. Two members shall be appointed as representatives of the public at large. Six members shall be appointed who shall hold current valid licenses to practice psychology in this Commonwealth and shall be broadly representative of the practice areas of psychology.

(b) The terms of each professional and public member of the board shall be four years, or until a successor has been appointed and qualified but not longer than six months beyond the four-year period. In the event that any of said members shall die or resign OR OTHERWISE BECOMES DISQUALIFIED during his or her term, a successor shall be appointed in the same way and with the same qualifications and shall hold office for the unexpired term. No member shall be eligible to serve more than two consecutive terms.

(c) A majority of the members of the board serving in accordance with law shall constitute a quorum for purposes of conducting the business of the board. A member may not be counted as part of a quorum or vote on any issue unless he or she is physically in attendance at the meeting.

(d) The board shall select annually a chairman and a vice-

chairman from among its professional members, and shall elect a secretary who need not be a member of the board.

(e) Each member of the board, except the Commissioner of Professional and Occupational Affairs shall receive sixty dollars (\$60) per diem when actually attending to the work of the board. Members shall also receive the amount of reasonable traveling, hotel and other necessary expenses incurred in the performance of their duties in accordance with Commonwealth regulations.

(f) The board is subject to evaluation, review and termination within the time and in the manner provided in the act of December 22, 1981 (P.L.508, No.142), known as the "Sunset Act."

(g) A member of the board who fails to attend three consecutive meetings shall forfeit his or her seat unless the Commissioner of Professional and Occupational Affairs, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of a family member.

(h) A public member who fails to attend TWO CONSECUTIVE <—  
statutorily mandated training seminars in accordance with  
section 21 of the act of November 26, 1978 (P.L.1223, No.292), <—  
entitled "An act amending the act of April 9, 1929 (P.L.177,  
No.175), entitled 'An act providing for and reorganizing the  
conduct of the executive and administrative work of the  
Commonwealth by the Executive Department thereof and the  
administrative departments, boards, commissions, and officers  
thereof, including the boards of trustees of State Normal  
Schools, or Teachers Colleges; abolishing, creating,  
reorganizing or authorizing the reorganization of certain

~~1 administrative departments, boards, and commissions; defining~~  
~~2 the powers and duties of the Governor and other executive and~~  
~~3 administrative officers, and of the several administrative~~  
~~4 departments, boards, commissions, and officers; fixing the~~  
~~5 salaries of the Governor, Lieutenant Governor, and certain other~~  
~~6 executive and administrative officers; providing for the~~  
~~7 appointment of certain administrative officers, and of all~~  
~~8 deputies and other assistants and employes in certain~~  
~~9 departments, boards, and commissions; and prescribing the manner~~  
~~10 in which the number and compensation of the deputies and all~~  
~~11 other assistants and employes of certain departments, boards and~~  
~~12 commissions shall be determined,' adding members of the public~~  
~~13 at large to certain licensing boards, changing the name of the~~  
~~14 State Board of Osteopathic Examiners, adding a dental hygienist~~  
~~15 to the State Dental Council and Examining Board, including the~~  
~~16 State Board of Psychologist Examiners, the State Board of Public~~  
~~17 Accountants and the State Board of Landscape Architects within~~  
~~18 the act, making editorial changes, further providing for the~~  
~~19 powers and duties of the Bureau of Professional and Occupational~~  
~~20 Affairs and the Bureau of Consumer Protection and making~~  
~~21 repeals," shall 813(E) OF THE ACT OF APRIL 9, 1929 (P.L.177,~~  
~~22 NO.175), KNOWN AS "THE ADMINISTRATIVE CODE OF 1929," SHALL~~  
~~23 forfeit his seat unless the Commissioner of Professional and~~  
~~24 Occupational Affairs, upon written request from the public~~  
~~25 member, finds that the public member should be excused from a~~  
~~26 meeting because of illness or the death of a family member.~~

~~27 (i) The board shall meet at least six times every year, and~~  
~~28 at such additional times as may be necessary to conduct the~~  
~~29 business of the board.~~

~~30 Section 3.3. Powers of the Board.--The board shall have the~~

1 following powers:

2 (1) To pass upon the qualifications and fitness of  
3 applicants for licenses and reciprocal licenses; and to adopt  
4 and revise rules and regulations requiring applicants to pass  
5 examinations relating to their qualifications as a prerequisite  
6 to the issuance of license.

7 (2) To adopt, and, from time to time, revise such rules and  
8 regulations and policies not inconsistent with the law as may be  
9 necessary to carry into effect the provisions of this act. Such  
10 rules and regulations shall include, but not be limited to,  
11 standards for professional practice, and a code of ethics for  
12 psychologists in the State, based upon ethical principles for  
13 psychologists of the American Psychological Association.

14 (3) To examine for, deny, approve, issue, revoke, suspend,  
15 restrict, limit and renew the licenses of psychologist  
16 applicants pursuant to this act, and to conduct hearings in  
17 connection therewith.

18 (4) To conduct hearings upon complaints concerning  
19 violations of the provisions of and the rules and regulations  
20 adopted pursuant to this act and cause the prosecution, impose  
21 civil penalties and enjoin any such violations.

22 (5) To employ a professional credentials evaluator to review  
23 applications.

24 (6) To waive examination and grant a license in cases deemed  
25 exceptional by the board: Provided, however, that any one or  
26 more of the powers hereinbefore set forth may be assumed and  
27 exercised by the board at any time, upon its adoption of a  
28 resolution to so act, with notice thereof given in writing to  
29 the commissioner.

30 Section 3.4. Fees, Fines and Civil Penalties.--(a) All fees

1 required pursuant to this act shall be fixed by the board by  
2 regulation and shall be subject to the act of June 25, 1982  
3 (P.L.633, No.181), known as the "Regulatory Review Act." If the  
4 revenues raised by fees, fines and civil penalties imposed  
5 pursuant to this act are not sufficient to meet expenditures  
6 over a two-year period, the board shall increase those fees by  
7 regulation so that the projected revenues will meet or exceed  
8 projected expenditure.

9 (b) If the Bureau of Professional and Occupational Affairs  
10 determines that the fees established by the board pursuant to  
11 subsection (a) are inadequate to meet the minimum enforcement  
12 efforts required by this act, then the bureau after consultation  
13 with the board and subject to the "Regulatory Review Act," shall  
14 increase the fees by regulation in an amount that adequate  
15 revenues are raised to meet the required enforcement effort.

16 (c) All fees, fines and civil penalties imposed in  
17 accordance with this act shall be paid into the Professional  
18 Licensure Augmentation Account.

19 Section 3.5. Reports of the Board.--(a) The board shall  
20 submit annually to the Department of State an estimate of the  
21 financial requirements of the board for its administrative,  
22 investigative, legal and miscellaneous expenses.

23 (b) The board shall submit annually to the House and Senate  
24 Appropriations Committees, fifteen days after the Governor has  
25 submitted his budget to the General Assembly, a copy of the  
26 budget request for the upcoming fiscal year which the board  
27 previously submitted to the department.

28 (c) The board shall submit annually a report to the  
29 Professional Licensure Committee of the House of Representatives  
30 and to the Consumer Protection and Professional Licensure

1 Committee of the Senate a description of the types of complaints  
2 received, status of cases, board action which has been taken and  
3 the length of time from the initial complaint to final board  
4 resolution.

5 Section 5. Section 6 of the act is amended to read:

6 Section 6. Qualifications for License.--(a) An applicant  
7 shall be qualified for a license to practice psychology  
8 [provided he submits] after submission of proof satisfactory to  
9 the board that the applicant:

10 (1) [He] is of acceptable moral character; and

11 (2) [He is either (i) a graduate of an accredited college or  
12 university holding a degree of Doctor of Philosophy or Doctor of  
13 Education in psychology plus two years of post doctorate  
14 experience acceptable to the board, or (ii) a graduate of an  
15 accredited college or university holding a doctoral degree in a  
16 field related to psychology, provided his experience and  
17 training are acceptable to the board as being equivalent to the  
18 above, or (iii) a graduate of an accredited college or  
19 university holding a master's degree in psychology or another of  
20 the behavioral sciences plus four years of experience provided  
21 his education and experience are acceptable to the board;]  
22 possesses a doctoral degree from a regionally accredited  
23 institution, provided that the degree is obtained from an  
24 integrated program of graduate study in psychology or IN a field <—  
25 related to psychology plus no less than two years of supervised  
26 experience one of which shall have been obtained subsequent to  
27 the granting of the doctoral degree, and provided that such  
28 experience AND TRAINING is acceptable to the board pursuant to <—  
29 criteria promulgated by the board; and

30 (3) [He] has passed an examination duly adopted by the

1 board; and

2 (4) [His application has been accompanied by an application  
3 fee of fifty dollars (\$50) or more as determined by the board,  
4 payable to the commissioner.] has paid all appropriate fees in  
5 the amount determined by the board by regulation.

6 (b) Each applicant [to the said board for examination or  
7 licensure shall have attached thereto the] must submit an  
8 affidavit or affirmation of the applicant as to [its] the verity  
9 of the application. Any applicant who knowingly or willfully  
10 makes a false statement of fact in his application shall be  
11 subject to prosecution for perjury.

12 (c) In case of failure at any examination, the applicant  
13 shall have, after the expiration of six months and within two  
14 years, the privilege of a second examination by the board  
15 [without] with the payment of [an] such additional fee. The  
16 board may adopt [rules and procedures] regulations governing the  
17 eligibility of applicants who have failed to pass two  
18 examinations in order to be admitted to subsequent examinations.

19 Section 6. Section 7 of the act is repealed.

20 Section 7. Section 8 of the act is amended to read:

21 Section 8. [A license previously issued may be revoked, if  
22 the person licensed be:

23 (1) Convicted of a felony or enters a plea of guilty or nolo  
24 contendere thereto, or

25 (2) An habitual user of narcotics, or other habit-forming  
26 drugs, or

27 (3) An habitual drunkard, or

28 (4) Found guilty of the unethical practice of psychology as  
29 detailed by the code of ethical standards adopted by the board,  
30 or



1 (5) Found guilty of presenting false credentials or  
2 documents in support of his application for license.] Refusal,  
3 Suspension or Revocation of License.--(a) The board may refuse  
4 to issue a license or may suspend, revoke, limit or restrict a  
5 license or reprimand a licensee for any of the following  
6 reasons:

7 (1) Failing to demonstrate the qualifications or standards  
8 for a license contained in this act or regulations of the board.

9 (2) Making misleading, deceptive, untrue or fraudulent  
10 representations in the practice of psychology.

11 (3) Practicing fraud or deceit in obtaining a license to  
12 practice psychology.

13 (4) Displaying gross incompetence, negligence or misconduct  
14 in carrying on the practice of psychology.

15 (5) Submitting a false or deceptive biennial registration to  
16 the board.

17 (6) Being convicted of a felony in any state or Federal  
18 court or being convicted of the equivalent of a felony in any  
19 foreign country, or being convicted of a misdemeanor in the  
20 practice of psychology. As used in this clause, the term  
21 "convicted" includes a finding or verdict of guilt, an admission  
22 of guilt or a plea of nolo contendere or receiving probation  
23 without verdict, disposition in lieu of trial, or an accelerated  
24 rehabilitation disposition in the disposition of felony charges.

25 (7) Having a license to practice psychology suspended,  
26 revoked or refused or receiving other disciplinary action by the  
27 proper psychology licensing authority of another state,  
28 territory or country.

29 (8) Being unable to practice psychology with reasonable  
30 skill and safety by reason of illness, drunkenness, excessive

1 use of drugs, narcotics, chemicals or any other type of  
2 material, or as a result of any mental or physical condition. In  
3 enforcing this clause, the board shall, upon probable cause,  
4 have authority to compel a psychologist to submit to a mental or  
5 physical examination by an appropriate professional approved by  
6 the board. Failure of a psychologist to submit to such  
7 examination when directed by the board, unless such failure is  
8 due to circumstances beyond his or her control, shall constitute  
9 an admission of the allegations against him or her, consequent  
10 upon which a default and final order may be entered without the  
11 taking of testimony or presentation of evidence. A psychologist  
12 affected under this clause shall at reasonable intervals, as  
13 determined by the board, be afforded an opportunity to  
14 demonstrate that he or she can resume a competent practice of  
15 psychology with reasonable skill and safety.

16 (9) Violating a lawful regulation promulgated by the board,  
17 including, but not limited to, ethical regulations, or violating  
18 a lawful order of the board previously entered in a disciplinary  
19 proceeding.

20 (10) Knowingly aiding, assisting, procuring or advising any  
21 unlicensed person to practice psychology, contrary to this act  
22 or regulations of the board.

23 (11) Committing immoral or unprofessional conduct.  
24 Unprofessional conduct shall include any departure from, or  
25 failure to conform to, the standards of acceptable and  
26 prevailing psychological practice. Actual injury to a client  
27 need not be established.

28 (12) Soliciting any engagement to perform professional  
29 services by any direct, in-person or uninvited soliciting  
30 through the use of coercion, duress, compulsion, intimidation,

1 threats, overreaching or harassing conduct.

2 (13) Failing to perform any statutory obligation placed upon  
3 a licensed psychologist.

4 (14) Intentionally submitting to any third-party payor a  
5 claim for a service or treatment which was not actually provided  
6 to a client.

7 (15) Failing to maintain professional records in accordance  
8 with regulations prescribed by the board.

9 (b) When the board finds that the license OR APPLICATION FOR <—  
10 LICENSE of any person may be refused, revoked, restricted or  
11 suspended under the terms of subsection (a), the board may:

12 (1) Deny the application for a license.

13 (2) Administer a public reprimand.

14 (3) Revoke, suspend, limit or otherwise restrict a license  
15 as determined by the board.

16 Unless ordered to do so by a court, the board shall not  
17 automatically reinstate the license of a person to practice  
18 psychology which has been revoked or suspended and such person  
19 shall be required to submit a petition for reinstatement and  
20 shall submit evidence at a hearing of the amelioration of the  
21 reasons for suspension or revocation in the first place.

22 (4) Require a licensee to submit to the care, counseling or  
23 treatment of an appropriate professional designated by the  
24 board.

25 (5) Suspend enforcement of its findings thereof and place a  
26 licensee on probation with the right to vacate the probationary  
27 order for noncompliance.

28 (6) Restore a suspended license to practice psychology and  
29 impose any disciplinary or corrective measure which it might  
30 originally have imposed.

1     (c) All actions of the board shall be taken subject to the  
2 right of notice, hearing and adjudication and the right of  
3 appeal therefrom in accordance with Title 2 of the Pennsylvania  
4 Consolidated Statutes (relating to administrative law and  
5 procedure).

6     (d) The board shall temporarily suspend a license under  
7 circumstances as determined by the board to be an immediate and  
8 clear danger to the public health and safety. The board shall  
9 issue an order to that effect without a hearing, but upon due  
10 notice to the licensee concerned at his or her last known  
11 address, which shall include a written statement of all  
12 allegations against the licensee. The provisions of subsection  
13 (c) shall not apply to temporary suspension. The board shall  
14 thereupon commence formal action to suspend, revoke and restrict  
15 the license of the person concerned as otherwise provided for in  
16 this act. All actions shall be taken promptly and without delay.  
17 Within thirty days following the issuance of an order  
18 temporarily suspending a license, the board shall conduct, or  
19 cause to be conducted, a preliminary hearing to determine that  
20 there is a prima facie case supporting the suspension. The  
21 licensee whose license has been temporarily suspended may be  
22 present at the preliminary hearing and may be represented by  
23 counsel, cross-examine witnesses, inspect physical evidence,  
24 call witnesses, offer evidence and testimony and make a record  
25 of the proceedings. If it is determined that there is not a  
26 prima facie case, the suspended license shall be immediately  
27 restored. The temporary suspension shall remain in effect until  
28 vacated by the board, but in no event longer than one hundred  
29 eighty days.

30     (e) A license issued under this act shall automatically be

1 suspended upon the legal commitment of a licensee to an  
2 institution because of mental incompetence from any cause upon  
3 filing with the board of a certified copy of such commitment,  
4 conviction of a felony under the act of April 14, 1972 (P.L.233,  
5 No.64), known as "The Controlled Substance, Drug, Device and  
6 Cosmetic Act," or conviction of an offense under the laws of  
7 another jurisdiction, which, if committed in Pennsylvania, would  
8 be a felony under "The Controlled Substance, Drug, Device and  
9 Cosmetic Act." As used in this section, the term "conviction"  
10 shall include a judgment, an admission of guilt or a plea of  
11 nolo contendere. Automatic suspension under this section shall  
12 not be stayed pending an appeal of conviction. Restoration of  
13 such license shall be made as provided in this act for  
14 revocation or suspension of such license.

15 Section 8. The act is amended by adding a section to read:

16 Section 8.1. Reporting of Multiple Licensure.--Any licensed  
17 psychologist of this Commonwealth who is also licensed to  
18 practice psychology in any other state, territory or country  
19 shall report this information to the board on the biennial  
20 registration application. Any disciplinary action taken in other  
21 states must be reported to the board on the biennial  
22 registration application. Multiple licensure will be noted on  
23 the psychologist's record and such state, territory or country  
24 will be notified of any disciplinary actions taken against said  
25 psychologist in this Commonwealth.

26 Section 9. Sections 9 and 10 of the act are repealed.

27 Section 10. Section 11 of the act is amended to read:

28 Section 11. [After eighteen months from the effective date  
29 of this act it shall be unlawful for any person to practice or  
30 attempt to offer to practice psychology, as defined in this act,

1 without having at the time of so doing a valid, unexpired,  
2 unrevoked and unsuspended license issued under this act. The  
3 unlawful practice of psychology as defined in this act may be  
4 enjoined by the courts on petition of the board or by the  
5 commissioner. In any such proceeding it shall not be necessary  
6 to show that any person is individually injured by the actions  
7 complained of. If the respondent is found guilty of the unlawful  
8 practice of psychology, the court shall enjoin him from so  
9 practicing unless and until he has been duly licensed. Procedure  
10 in such cases shall be the same as in any other injunction suit.  
11 The remedy by injunction hereby given is in addition to criminal  
12 prosecution and punishment.] Penalties and Injunctions Against  
13 Unlawful Practice.--(a) Any person who engages or offers to  
14 engage in the practice of psychology without holding a currently  
15 valid license as required by this act or any person or the  
16 responsible officer or employee of any corporation or  
17 partnership, institution or association who violates any of the  
18 provisions of this act or any rule or regulation of the board  
19 promulgated pursuant thereto, for a first offense shall be  
20 guilty of a misdemeanor and upon conviction shall be sentenced  
21 to pay a fine of not more than one thousand dollars (\$1,000) or  
22 undergo imprisonment; and on each additional offense shall be  
23 subject to a fine of not less than two thousand dollars (\$2,000)  
24 and imprisonment of not more than six months, or be subject to  
25 both such fine and imprisonment of not less than six months nor  
26 more than one year.

27 (b) In addition to any other civil remedy or criminal  
28 penalty provided for in this act, the board, by a vote of the  
29 majority of the maximum number authorized membership of the  
30 board as provided by law, or by a vote of the majority of the

1 duly qualified and confirmed membership or a minimum of four  
2 members, whichever is greater, may levy a civil penalty of up to  
3 one thousand dollars (\$1,000) on any current licensee who  
4 violates any provision of this act or on any person who  
5 practices psychology without being properly licensed to do so  
6 under this act. The board shall levy this penalty only after  
7 affording the accused party the opportunity for a hearing, as  
8 provided by Title 2 of the Pennsylvania Consolidated Statutes  
9 (relating to administrative law and procedure). All fines and  
10 civil penalties imposed in accordance with this act shall be  
11 paid into the Professional Augmentation Account. The board  
12 shall, within six months after the effective date of this act,  
13 adopt guidelines setting forth the amounts and circumstances for  
14 which a fine may be imposed. No fines may be imposed in  
15 accordance with this subsection until the board has adopted the  
16 required guidelines.

17 (c) The board may issue an order to show cause to any  
18 individual suspected of unlawfully engaging in the practice of  
19 psychology why such individual should not be enjoined from such  
20 practices and made subject to appropriate fines and penalties.  
21 In any such proceeding, it shall not be necessary to show that  
22 any person is individually injured by the actions complained of.  
23 If the respondent is found guilty of the unlawful practice of  
24 psychology, the court shall enjoin him from so practicing unless  
25 and until he has been duly licensed. Procedure in such cases  
26 shall be the same as in any other injunction suit. The remedy by  
27 injunction hereby given is in addition to criminal prosecution  
28 and punishment.

29 Section 11. The act is amended by adding a section to read:

30 Section 11.1. Subpoenas.--The board shall have the authority

1 to issue subpoenas, upon application of an attorney responsible  
2 for representing the Commonwealth in disciplinary matters before  
3 the board, for the purpose of investigating alleged violations  
4 of the disciplinary provisions administered by the board. The  
5 board shall have the power to subpoena witnesses, to administer  
6 oaths, to examine witnesses, or take such testimony or compel  
7 the production of such books, records, papers, and documents as  
8 it may deem necessary or proper in, and pertinent to, any  
9 proceeding, investigation, or hearing, held or had by it.  
10 Medical records may not be subpoenaed without consent of the  
11 patient or without order of a court of competent jurisdiction on  
12 a showing that the records are reasonably necessary for the  
13 conduct of the investigation. The court may impose such  
14 limitations on the scope of the subpoena as are necessary to  
15 prevent unnecessary intrusion in patient confidential  
16 information. The board is authorized to apply to Commonwealth  
17 Court to enforce its subpoenas.

18 Section 12. Section 12 of the act is amended to read:

19 Section 12. Out-of-State Licensing.--The board may recommend  
20 the granting of a license without examination to any person who,  
21 at the time of application holds a valid license or certificate  
22 issued by a board of psychologist examiners of any state,  
23 provided in the opinion of the board[, ] the requirements for  
24 such certification or licensure are substantially the equivalent  
25 of the requirements of this act[, or at the time of application,  
26 holds a diploma awarded by the American Board of Examiners in  
27 Professional Psychology and upon payment of the fee specified by  
28 the board].

29 Section 13. The act is amended by adding a section to read:

30 Section 12.1. Confidential Communications.--(a) The



relations and communications between a licensed psychologist and the individuals with whom the psychologist engages in the practice of psychology are confidential. At the initiation of the professional relationship the psychologist shall inform the client of the following limitations to the confidentiality of their communications.

(b) No psychologist, nor any colleague, agent or employe of any psychologist, whether professional, clerical, academic or therapeutic, nor any other person present or participating with said psychologist, nor any other client or patient participating as a group with said psychologist, shall disclose any information acquired or revealed in the course of, or in connection with, the performance of the psychologist's professional services, including the fact, circumstances, findings, or records of such services, except under the following circumstances:

(1) Upon order of a court of competent jurisdiction in any trial for homicide when the disclosure is related directly to the fact or immediate circumstances of said homicide.

(2) Upon an issue as to the validity of any document, such as a will of the client or patient.

(3) Upon the express consent of the client or patient, or upon the constructive waiver by the client or patient of this privilege, including but not limited to the placement in issue in any court by the client or patient of his or her own state of mind or mental condition, or in the case of the unavailability, incapacity, or death of the client or patient upon the express consent or constructive waiver of this privilege by the client's or patient's legal representative.

(4) Upon the need to disclose information which protects the

1 rights and safety of others when:

2 (i) the client presents a clear and present danger to  
3 himself or herself and refuses to accept further appropriate  
4 protective treatment. In such circumstances the psychologist may  
5 petition the county Mental Health Administrator to institute  
6 proceedings for further treatment and may contact members of the  
7 client's family or others if in the opinion of the psychologist  
8 it would ensure the safety of the client; or

9 (ii) the client presents a clear and present danger to  
10 others. In such circumstances the psychologist has a duty to  
11 inform the proper authorities and if, in the opinion of the  
12 psychologist, harm may be prevented to a particular, identified  
13 individual, the psychologist may also contact and warn such  
14 individual.

15 (5) If disclosure is required by statute to protect the  
16 safety of others.

17 (6) If disclosure is required by the order of a criminal or  
18 civil court the psychologist shall invoke the right to  
19 privileged communication pursuant to section 5944 of Title 42 of  
20 the Pennsylvania Consolidated Statutes (relating to judiciary <—  
21 and judicial procedure CONFIDENTIAL COMMUNICATIONS TO LICENSED <—  
22 PSYCHOLOGISTS), and such court may utilize the provisions of  
23 this section in construing the scope of privileged  
24 communication.

25 (c) Access to written records is controlled by the client  
26 except:

27 (1) A psychologist may release certain general information  
28 such as the number of sessions or the diagnosis and prognosis to  
29 a third-party payor for the purpose of obtaining payment for  
30 services rendered.

1     (2) The written records controlled by the client do not  
2     include the psychologist's working notes used in the preparation  
3     of formal records or reports.

4     Section 14. Sections 14 and 15 of the act are amended to  
5     read:

6     Section 14. Severability.--If any section of this act, or  
7     any part thereof, shall be adjudged by any court of competent  
8     jurisdiction, to be invalid, such judgment shall not affect,  
9     impair or invalidate the remainder of any section or part  
10    thereof.

11    Section 15. Renewal; Fees; Records.--Provision shall be made  
12    for renewal of licenses on a biennial basis. The board may  
13    develop requirements for the required number of hours of  
14    continuing education as a condition of biennial renewal. Such  
15    hours shall be determined by the board and approved by the  
16    Professional Licensure Committee of the House of Representatives  
17    and the Consumer Protection and Professional Licensure Committee  
18    of the Senate. The fee for renewal of license shall be [ten  
19    dollars (\$10) or more] an amount as specified by the board by  
20    regulation. A record of all psychologists licensed to practice  
21    in Pennsylvania shall be kept in the office of the commissioner.  
22    A duplicate record shall be kept by the board and [published in  
23    such manner and interval as it deems necessary] made available  
24    to the public in such manner as it deems appropriate.

25    Section 15. The act is amended by adding sections to read:

26    Section 16. Reinstatement of License.--Unless ordered to do  
27    so by Commonwealth Court or an appeal therefrom, the board shall  
28    not reinstate the license of a person to practice psychology  
29    pursuant to this act which has been revoked. Any person whose  
30    license has been revoked may apply for reinstatement, after a

period of at least five years, but must meet all of the  
licensing qualifications of this act for the license applied  
for, to include the examination requirement, if he or she  
desires to practice at any time after such revocation.

Section 17. Surrender of Suspended or Revoked License.--The  
board shall require a person whose license or registration has  
been suspended or revoked, to return in such manner as the board  
directs, the license or registration. Failure to do so shall be  
a misdemeanor of the third degree.

Section 18. Impaired Professional.--(a) The board, with the  
approval of the Commissioner of Professional and Occupational  
Affairs, shall appoint and fix the compensation of a  
professional consultant who is a licensee of the board with  
education and experience in the identification, treatment and  
rehabilitation of persons with physical or mental impairments.  
Such consultant shall be accountable to the board and shall act  
as a liaison between the board and treatment programs, such as  
Alcoholics Anonymous, Narcotics Anonymous, psychological  
counseling, impaired professional support groups, which are  
approved by the board and which provide services to licensees  
under this act.

(b) The board may defer and ultimately dismiss any of the  
types of corrective action set forth in this act for an impaired  
professional so long as the professional is progressing  
satisfactorily in an approved treatment program, provided that  
the provisions of this subsection shall not apply to a  
professional convicted of a felonious act prohibited by the act  
of April 14, 1972 (P.L.233, No.64), known as "The Controlled  
Substance, Drug, Device and Cosmetic Act," or convicted of a  
felony relating to a controlled substance in a court of law of

1 the United States or any other state, territory or country. An  
2 approved program provider shall, upon request, disclose to the  
3 consultant all information in its possession regarding any  
4 impaired professional in treatment.

5 (c) An impaired professional who enrolls in an approved  
6 treatment program shall ~~request a voluntary suspension of his or~~ <—  
7 ~~her license or certificate or,~~ IF NECESSARY, agree to a <—  
8 limitation of his or her ability to practice. Failure to do so  
9 disqualifies the professional from the impaired professional  
10 program and shall activate an immediate investigation and  
11 disciplinary proceeding by the board.

12 (d) If, in the opinion of the consultant after consultation  
13 with the provider, an impaired professional who is enrolled in  
14 an approved treatment has not progressed satisfactorily, the  
15 consultant shall disclose to the board all information in its  
16 possession relevant to the issue of impairment regarding said  
17 professional; and such disclosure shall constitute the basis for  
18 instituting proceedings to suspend or revoke the license of said  
19 professional.

20 (e) An approved program provider who makes a disclosure  
21 pursuant to this section shall not be subject to civil liability  
22 for such disclosure or its consequences.

23 (f) Any hospital or health care facility, ~~licensee,~~ <—  
24 ~~certificate holder,~~ peer or colleague who knows or has evidence  
25 that a professional has an addictive disease, is diverting a  
26 controlled substance or is mentally or physically incompetent to  
27 carry out the duties of his or her license shall make or cause  
28 to be made a report to the board: PROVIDED, THAT ANY PERSON OR <—  
29 FACILITY WHO ACTS IN A TREATMENT CAPACITY TO AN IMPAIRED  
30 PROFESSIONAL IN AN APPROVED TREATMENT PROGRAM IS EXEMPT FROM THE

1 MANDATORY REPORTING REQUIREMENTS OF THIS SUBSECTION. Any person  
2 or facility who reports pursuant to this section in good faith  
3 and without malice shall be immune from any civil or criminal  
4 liability arising from such report. Failure to provide such  
5 report within a reasonable time from receipt of knowledge of  
6 impairment shall subject the person or facility to a fine not to  
7 exceed one thousand dollars (\$1,000). The board shall levy this  
8 penalty only after affording the accused party the opportunity  
9 for a hearing, as provided in Title 2 of the Pennsylvania  
10 Consolidated Statutes (relating to administrative law and  
11 procedure).

12 Section 16. This act, with respect to the State Board of  
13 Psychologist Examiners, shall constitute the legislation  
14 required to reestablish an agency pursuant to the act of  
15 December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

16 Section 17. (a) Section 476.1 of the act of April 9, 1929  
17 (P.L.177, No.175), known as The Administrative Code of 1929, is  
18 repealed.

19 (b) All other acts and parts of acts are repealed insofar as  
20 they are inconsistent with this act.

21 Section 18. The presently confirmed members of the State  
22 Board of Psychologist Examiners constituted under section 476.1  
23 of the act of April 9, 1929 (P.L.177, No.175), known as The  
24 Administrative Code of 1929, as of December 31, 1985, shall  
25 continue to serve as board members until their present terms of  
26 office expire.

27 Section 19. Each rule and regulation of the board in effect  
28 on December 31, 1985, and not inconsistent with this act, shall  
29 remain in effect after such date until repealed or amended by  
30 the board. EACH FEE OF THE BOARD IN EFFECT ON DECEMBER 31, 1985, <—

1 AND NOT INCONSISTENT WITH THIS ACT, SHALL REMAIN IN EFFECT AFTER  
2 SUCH DATE UNTIL REPEALED OR AMENDED BY THE BOARD OR THE  
3 COMMISSIONER.

4 Section 20. (a) Any person who holds a valid license issued  
5 by the State Board of Psychologist Examiners under the act of  
6 March 23, 1972 (P.L.136, No.52), referred to as the  
7 Psychologists License Act, relating to the practice of  
8 psychology, prior to the effective date of this amendatory act  
9 shall, on and after the effective date hereof, be deemed to be  
10 licensed by the State Board of Psychologists as provided for in  
11 this amendatory act.

12 (b) The doctoral level training requirements imposed by this  
13 act shall not apply for a period of seven years following the  
14 enactment of this act to any individuals who (i) upon the date  
15 of enactment of this act are pursuing graduate training in the  
16 expectation of seeking licensure, or (ii) upon the date of  
17 enactment of this act are pursuing postgraduate supervised  
18 experience in anticipation of seeking licensure. Any such  
19 individuals may within a period of seven years following the  
20 enactment of this law be granted a license by the board based  
21 upon prior law governing graduate training and experience  
22 requirements and fulfillment of all other requirements currently  
23 in effect, including passing the examination, but only provided  
24 that such individuals register their intention to seek licensure  
25 upon such a basis with the board, in a manner to be determined  
26 by the board, within nine months of the enactment of this act.

27 Section 21. This act shall take effect January 1, 1986.