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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 958**      Session of  
2003

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INTRODUCED BY STACK, KUKOVICH, RAFFERTY AND COSTA,  
NOVEMBER 10, 2003

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REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
NOVEMBER 10, 2003

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AN ACT

1 Relating to the practice of psychoanalysis; providing for  
2 licensing of psychoanalysts; making certain acts illegal; and  
3 providing penalties.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the  
8 Psychoanalysts Licensure Act.

9 Section 2. Legislative findings and declaration of policy.

10 It is determined and declared as a matter of legislative  
11 finding that the public interest requires the establishment of  
12 clear licensure standards for psychoanalysts. The health and  
13 welfare of the residents of this Commonwealth will be protected  
14 by identifying to the public those individuals who are qualified  
15 to call themselves State-licensed psychoanalysts.

16 Section 3. Definitions.

17 The following words and phrases when used in this act shall  
18 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "American Board for the Accreditation of Psychoanalysis." A  
3 national professional organization of psychoanalysts that  
4 conducts on-site visits of psychoanalytic institutes applying  
5 for association membership.

6 "Board." The State Board of Psychoanalysts in the Department  
7 of State as established in section 4.

8 "Commissioner." The Commissioner of Professional and  
9 Occupational Affairs in the Department of State.

10 "Psychoanalytic services." Therapeutic services that are  
11 based on an understanding of the unconscious and how unconscious  
12 processes affect the human mind as a whole, including actions,  
13 thoughts, perceptions and emotions.

14 "State-licensed psychoanalyst." An individual who has met  
15 the eligibility requirements contained in section 6 and holds a  
16 current, valid State license.

17 Section 4. State Board of Psychoanalysts.

18 (a) Establishment.--The State Board of Psychoanalysts is  
19 established.

20 (b) Members.--

21 (1) The board shall consist of seven members who are  
22 citizens of the United States and who have been residents of  
23 this Commonwealth for a three-year period. Four members shall  
24 be State-licensed psychoanalysts and two members shall be  
25 representatives of the public at large. The four  
26 psychoanalyst members shall be, except for the members first  
27 appointed, State-licensed psychoanalysts under the provisions  
28 of this act and shall have been actively engaged in the  
29 practice of psychoanalytical services in this Commonwealth  
30 for at least five years immediately preceding their

1 appointment.

2 (2) Six members shall be appointed by the Governor, with  
3 the advice and consent of a majority of the members elected  
4 to the Senate, and the Commissioner of Professional and  
5 Occupational Affairs shall serve as the seventh member of the  
6 board.

7 (c) Terms.--The terms of each professional and public member  
8 of the board shall be three years or until a successor has been  
9 appointed and qualified but not longer than six months beyond  
10 the four-year period. Of the members first appointed, two, one  
11 of whom shall be a member representing the public at large and  
12 one of whom shall be a psychoanalyst, shall serve for a term of  
13 three years; two, one of whom shall be a member representing the  
14 public at large and one of whom shall be a psychoanalyst, shall  
15 serve for a term of two years; and two shall serve for a term of  
16 one year. In the event that any of said members shall die or  
17 resign or otherwise become disqualified during his or her term,  
18 a successor shall be appointed in the same way and with the same  
19 qualifications and shall hold office for the unexpired term. No  
20 member shall be eligible for appointment to serve more than two  
21 consecutive terms.

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

27 (e) Officers.--The board shall elect annually a chairman and  
28 a vice chairman from among its members and shall select a  
29 secretary who, with the approval of the commissioner, need not  
30 be a member of the board.

1 (f) Reimbursements.--Each member of the board, except the  
2 commissioner, shall receive reimbursement for reasonable  
3 traveling, for hotel and other necessary expenses incurred in  
4 the performance of their duties in accordance with Commonwealth  
5 regulations.

6 (g) Attendance.--A member of the board who fails to attend  
7 three consecutive meetings shall forfeit his or her seat unless  
8 the commissioner, upon written request from the member, finds  
9 that the member should be excused from a meeting because of  
10 illness or the death of a family member.

11 (h) Meetings.--The board shall meet as necessary to  
12 discharge its duties and shall meet at the call of the  
13 commissioner.

14 Section 5. Powers and responsibilities of the board.

15 The board shall have the following powers and  
16 responsibilities:

17 (1) To pass upon the qualifications and fitness of  
18 applicants for licensure and reciprocal licensure and to  
19 adopt and revise rules and regulations requiring applicants  
20 to pass examinations relating to their qualifications as a  
21 prerequisite to the issuance of licenses.

22 (2) To adopt and, from time to time, revise such rules,  
23 regulations and policies not inconsistent with the law as may  
24 be necessary to carry into effect the provisions of this act.  
25 Such rules and regulations shall include, but not be limited  
26 to, standards for professional practice and a code of ethics  
27 for psychoanalysts in this Commonwealth.

28 (3) To examine for, deny, approve, issue, revoke,  
29 suspend, restrict, limit and renew the certification of  
30 psychoanalyst applicants pursuant to this act and to conduct

1 hearings in connection therewith.

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

6 (5) To employ, with the approval of the commissioner, a  
7 professional credentials evaluator to review applications.

8 (6) To maintain a record of every psychoanalyst licensed  
9 in this Commonwealth, their places of business, place of  
10 residence and the date and number of their certificate.

11 Section 6. Qualifications for licensure.

12 (a) Qualification.--An applicant shall be qualified for a  
13 psychoanalyst State license after submission of proof  
14 satisfactory to the board that the applicant:

15 (1) is at least 18 years of age;

16 (2) is of good moral character;

17 (3) has received a master's degree from an accredited  
18 institution of higher education;

19 (4) has received a graduate certificate in  
20 psychoanalysis from a freestanding psychoanalytical institute  
21 that is chartered by a state or foreign government and  
22 approved by the board or accredited by a national  
23 psychoanalytic association and approved by the board; and

24 (5) has successfully passed an examination approved by  
25 the board to determine the applicant's competence to practice  
26 psychoanalytic services.

27 (b) Verification.--Each applicant shall submit an affidavit  
28 or affirmation of the applicant as to the verity of the  
29 application. Any applicant who knowingly or willfully makes a  
30 false statement of fact in his application shall be subject to

1 prosecution for perjury.

2 Section 7. Examination.

3 (a) Requirements of examination.--The examination required  
4 by section 6(a)(5) shall:

5 (1) Cover the theories relating to an applicant's  
6 psychoanalytic educational background. The board may use  
7 psychoanalytic tests utilized by State or foreign  
8 psychoanalytic training institutions or by a national  
9 psychoanalytic association.

10 (2) Be held within this Commonwealth at least once each  
11 year at a time and place to be determined by the board except  
12 that an examination need not be conducted when no one has  
13 applied to be examined. The board shall give adequate written  
14 notice of the examination of applicants for State licensure  
15 and examination.

16 (b) Failure.--If an applicant fails an examination twice,  
17 the applicant may take a third examination not less than one  
18 year nor more than three years from the date of the applicant's  
19 initial examination. Additional examinations may be permitted in  
20 accordance with standards set by the board.

21 Section 8. Issuance of license.

22 The board shall issue a State license to any applicant who,  
23 in the opinion of the board, has satisfactorily met the  
24 requirements of this act. The board may waive the requirement  
25 under section 6(a)(4) and allow an applicant to sit for the  
26 State license examination if in the opinion of the board the  
27 applicant has sufficient experience in psychoanalysis and holds  
28 a current State license in a mental health profession. All  
29 licenses shall be issued for a two-year period upon filing of a  
30 renewal application, the payment of a licensing fee and

1 presentation of satisfactory evidence that the renewal applicant  
2 has successfully completed the continuing education requirements  
3 prescribed by the board by regulation.

4 Section 9. Use of title restricted.

5 No person shall use the title "State-licensed psychoanalyst"  
6 or the abbreviation "SLP" unless licensed pursuant to the  
7 provisions of this act.

8 Section 10. Discretion in issuance of license.

9 The board may waive the education, experience and examination  
10 requirements for State licensure and issue a State license by  
11 endorsement to any applicant who holds a current license,  
12 registration or certificate to practice psychoanalysis issued  
13 by the agency of another state or country which, in the opinion  
14 of the board, has requirements for licensure, registration or  
15 certification equivalent to or higher than those required to be  
16 licensed in this Commonwealth.

17 Section 11. Reporting of multiple licensure.

18 Any State-licensed psychoanalyst of this Commonwealth who is  
19 also licensed, registered or certified in psychoanalysis in any  
20 other state, territory or country shall report this information  
21 to the board on the biennial registration application. Any  
22 disciplinary action taken in any other state, territory or  
23 country shall be reported to the board on the biennial  
24 registration application or within 90 days of disposition,  
25 whichever is sooner. Multiple licensure shall be noted by the  
26 board on the psychoanalyst's record, and such state, territory  
27 or country shall be notified by the board of any disciplinary  
28 actions taken against said psychoanalyst in this Commonwealth.

29 Section 12. Subpoenas.

30 (a) Authority to subpoena.--The board shall have the

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

18 (b) Violations.--An attorney responsible for representing  
19 the Commonwealth in disciplinary matters before the board shall  
20 notify the board immediately upon receiving notification of an  
21 alleged violation of this act. The board shall maintain current  
22 records of all reports of alleged violations and periodically  
23 review the records for the purpose of determining that each  
24 alleged violation has been resolved in a timely manner.

25 Section 13. Fees and fines for board.

26 (a) Collection.--All fees and fines collected under the  
27 provisions of this act shall be paid into the Professional  
28 Licensure Augmentation Account established pursuant to and for  
29 use in accordance with the act of July 1, 1978 (P.L.700,  
30 No.124), known as the Bureau of Professional and Occupational

1 Affairs Fee Act.

2 (b) Regulatory review board.--All fees required under the  
3 provisions of this act shall be fixed by the board, by  
4 regulation, and shall be subject to review in accordance with  
5 the act of June 25, 1982 (P.L.633, No.181), known as the  
6 Regulatory Review Act. If the revenues generated by fees, fines  
7 and civil penalties imposed in accordance with the provisions of  
8 this act are not sufficient to match expenditures over a two-  
9 year period, the board shall increase those fees by regulation,  
10 subject to review in accordance with the Regulatory Review Act,  
11 such that the projected revenues will meet or exceed projected  
12 expenditures.

13 (c) Bureau of Professional and Occupational Affairs.--If the  
14 Bureau of Professional and Occupational Affairs determines that  
15 the fees established by the board are inadequate to meet the  
16 minimum enforcement efforts required, then the bureau, after  
17 consultation with the board, shall increase the fees by  
18 regulation, subject to review in accordance with the Regulatory  
19 Review Act, such that adequate revenues are raised to meet the  
20 required enforcement effort.

21 Section 14. Effective date.

22 This act shall take effect in 60 days.