

---

 THE GENERAL ASSEMBLY OF PENNSYLVANIA
 

---

# SENATE BILL

No. **772** Session of  
2015

---

INTRODUCED BY GORDNER, BREWSTER, BLAKE, WOZNIAK, SCARNATI,  
MENSCH, YUDICHAK, RAFFERTY, McILHINNEY, BARTOLOTTA, SMITH,  
ARGALL, HUGHES AND DINNIMAN, MAY 1, 2015

---

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 6, 2016

---

## 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," further providing for definitions ~~and~~  
5 ~~for temporary license; allowing applicants to take test~~ <--  
6 ~~sooner; defining board's powers,~~ FOR NECESSITY FOR LICENSE, <--  
7 FOR QUALIFICATIONS FOR LICENSE, FOR REFUSAL, SUSPENSION OR  
8 REVOCATION OF LICENSE AND FOR REPORTING OF MULTIPLE  
9 LICENSURE; making editorial changes; and making a RELATED <--  
10 repeal.

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

13 Section 1. Sections 2, 3, 6, 8 and 8.1 of the act of March  
14 23, 1972 (P.L.136, No.52), known as the Professional  
15 Psychologists Practice Act, amended or added April 25, 1986  
16 (P.L.89, No.33), are amended to read:

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

18 "Board" means the State Board of Psychology in the Department  
19 of State.

20 "Commissioner" means the Commissioner of Professional and

1 Occupational Affairs in the Department of State.

2 "Person" means an individual, corporation, partnership,  
3 association, unincorporated organization or a government or any  
4 political subdivision, agency or instrumentality thereof.

5 "Practice of psychology" means offering to render or  
6 rendering to individuals, corporations, institutions,  
7 governmental agencies, or the public for remuneration any  
8 service involving the following:

9 (i) The application of established principles of learning,  
10 motivation, perception, thinking, and emotional relationships to  
11 problems of personality evaluation, group relations, and  
12 behavior adjustment. The application of said principles  
13 includes, but is not restricted to, counseling and the use of  
14 psychological methods with persons or groups with adjustment  
15 problems in the areas of work, family, school, and personal  
16 relationships; measuring and testing of personality,  
17 intelligence, aptitudes, and emotions, and offering services as  
18 a psychological consultant. Psychologists with appropriate  
19 education, training and experience may diagnose and use  
20 psychological methods in the treatment of a mental, emotional or  
21 nervous illness or disability; alcoholism and other substance  
22 abuse; disorders of habit or conduct; psychological aspects of  
23 physical illness, accident, injury or disability; and  
24 psychoeducational evaluation, therapy, remediation and  
25 consultation.

26 (ii) (a) "Measuring and testing," consisting of the  
27 psychological assessment and evaluation of abilities, attitudes,  
28 aptitudes, achievements, adjustments, motives, personality  
29 dynamics and/or other psychological attributes of individuals,  
30 or groups of individuals by means of standardized measurements

1 or other methods, techniques or procedures recognized by the  
2 science and profession of psychology, (b) "psychological  
3 methods," consisting of the application of principles of  
4 learning and motivation in an interpersonal situation with the  
5 objectives of modification of perception and adjustment, and  
6 requiring highly developed skills in the disciplines,  
7 techniques, and methods of altering through learning processes,  
8 attitudes, feelings, values, self-concept, personal goals and  
9 adaptive patterns, (c) "psychological consulting," consisting of  
10 interpreting or reporting upon scientific fact or theory in  
11 psychology, rendering expert psychological opinion,  
12 psychological evaluation, or engaging in applied psychological  
13 research.

14 Section 3. Necessity for License.--It shall be unlawful for  
15 any person to engage in the practice of psychology or to offer  
16 or attempt to do so or to hold himself out to the public by any  
17 title or description of services incorporating the words  
18 "psychological," "psychologist" or "psychology" unless he shall  
19 first have obtained a license pursuant to this act, except as  
20 hereinafter provided:

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

23 (2) Persons licensed to practice any of the other healing  
24 arts in this Commonwealth shall be exempt from the provisions of  
25 this act. Nothing in this act shall be construed to limit the  
26 practice of persons licensed to practice any of the other  
27 healing arts in any way. Nothing [herein] in this act shall be  
28 construed as authorizing any person licensed as a psychologist  
29 to engage in any manner in the practice of any of the other  
30 healing arts as defined in the laws of this Commonwealth on the

1 effective date of this act. The psychologist who engages in  
2 practice shall assist his client in obtaining professional help  
3 for all relevant aspects of his problem that fall outside the  
4 boundaries of the psychologist's own competence. Provision must  
5 be made for the diagnosis and treatment of relevant health care  
6 problems by an appropriate qualified practitioner of the other  
7 healing arts. Nothing in this act shall be construed as  
8 extending to a person licensed as a psychologist any authority  
9 or rights which are not granted under this act.

10 (3) Nothing in this act shall be construed to prevent  
11 qualified members of other recognized professions, including,  
12 but not limited to, clergy, drug and alcohol abuse counselors,  
13 mental health counselors, social workers, [marriage counselors,  
14 family counselors,] crisis intervention counselors, marriage and  
15 family therapists, pastoral counselors, rehabilitation  
16 counselors and psychoanalysts, from doing work of a  
17 psychological nature consistent with the training and the code  
18 of ethics of their respective professions or to prevent  
19 volunteers from providing services in crisis or emergency  
20 situations.

21 (4) Nothing in this act shall be construed to limit the  
22 practice of psychology or use of an official title on the part  
23 of a person employed as a psychologist by a Federal[, State,  
24 county, or municipal] agency[, or other political subdivisions,] <--  
25 ], THE DEPARTMENT OF CORRECTIONS OR THE DEPARTMENT OF HUMAN <--  
26 SERVICES or those persons certified and employed as school  
27 psychologists in the public and private schools of the  
28 Commonwealth or in a facility or as part of an educational  
29 program regulated by the Department of Education, in so far as  
30 such practice is a part of the normal function of his position

1 or is performed on behalf of or according to the usual  
2 expectations of his employer.

3 (4.1) PSYCHOLOGICAL TESTING AND PSYCHOLOGICAL ASSESSMENTS <--  
4 SELECTED, ADMINISTERED, SCORED AND INTERPRETED BY EMPLOYES OF  
5 THE DEPARTMENT OF CORRECTIONS AND THE DEPARTMENT OF HUMAN  
6 SERVICES UNDER THE DIRECTION OF A LICENSED PSYCHOLOGIST SHALL BE  
7 EXEMPT FROM THE PROVISIONS OF THIS ACT. AS USED IN THIS CLAUSE  
8 THE TERM "UNDER THE DIRECTION OF A LICENSED PSYCHOLOGIST" MEANS  
9 THE LICENSED PSYCHOLOGIST SHALL REVIEW EACH PSYCHOLOGICAL TEST  
10 AND PSYCHOLOGICAL ASSESSMENT SELECTED, ADMINISTERED, SCORED AND  
11 INTERPRETED BY THE EMPLOYE AND SHALL COSIGN THE CORRESPONDING  
12 REPORT. THE LICENSED PSYCHOLOGIST SHALL HAVE THE PROFESSIONAL  
13 RESPONSIBILITY FOR THE SELECTION, ADMINISTRATION, SCORING AND  
14 INTERPRETATION OF THE PSYCHOLOGICAL TEST OR PSYCHOLOGICAL  
15 ASSESSMENT BY THE EMPLOYE.

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

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

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

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

23 (7.1) The board may issue a temporary license to an  
24 applicant for licensure as a psychologist who holds a similar or  
25 current license from another state, province or territory and  
26 whose standards, in the opinion of the board, are substantially  
27 equivalent to those required under this act. The board may  
28 refuse a temporary license to a psychologist who is the subject  
29 of past or pending disciplinary action in another jurisdiction.

30 (8) Nothing in this act shall be construed to prohibit

1 employes of business and industrial organizations from applying  
2 the principles of psychology described in section 2 to the  
3 employment placement, evaluation, selection, promotion or job  
4 adjustment of their own officers or employes or those of any  
5 associated organization. No business or industrial firm or  
6 corporation may sell or offer to the public or to individuals or  
7 to other firms or corporations for remuneration any  
8 psychological acts or services as are part of the practice of  
9 psychology unless such services are performed by individuals  
10 duly and appropriately licensed under this act.

11 (9) Nothing in this act shall be construed to limit the  
12 activities of a clerical or administrative employe in the  
13 performance of duties incidental to and necessary to the work of  
14 a psychologist, provided that the clerical or administrative  
15 employe acts at all times under the supervision of a licensed  
16 psychologist, and provided further that the employe does not  
17 assume to the independent practice of psychology.

18 [(10) Nothing in this act shall be construed to prohibit a  
19 school psychologist certified by the Department of Education  
20 from performing in private practice those acts which he is  
21 permitted to perform in the public and private schools of the  
22 Commonwealth.]

23 (10.1) A person who on the effective date of this clause OR <--  
24 BEFORE JUNE 30, 2017, has completed all requirements for  
25 certification as an Educational Specialist I or II in school  
26 psychology issued by the Department of Education or one who is  
27 enrolled in a program leading to certification as an Educational  
28 Specialist I or II in school psychology within one year after <--  
29 the effective date of this clause ON OR BEFORE JUNE 30, 2018, <--  
30 may perform in private practice an act which the person is

1 permitted to perform in the public and private schools of this  
2 Commonwealth if the person satisfies the following:

3 (i) the person is employed by a public or private school in  
4 this Commonwealth or by a facility or as part of an educational  
5 program regulated by the Department of Education; and

6 (ii) holds a valid certificate as an Educational Specialist  
7 I or II in school psychology issued by the Department of  
8 Education that is in good standing.

9 (11) Nothing in this act shall be construed to prohibit a  
10 psychologist licensed under this act from employing and  
11 supervising postdoctoral individuals completing the experience  
12 requirement for licensure who shall be designated as "psychology  
13 interns," "psychology residents" or "psychological trainees."  
14 Such individuals shall perform their duties under the full  
15 direction, control and supervision of a licensed psychologist,  
16 pursuant to regulations of the board.

17 (12) Nothing in this act shall be construed to prohibit a  
18 psychologist licensed under this act from employing professional  
19 employes with graduate training in psychology. Such individuals  
20 shall perform their duties under the full direction, control and  
21 supervision of a licensed psychologist, pursuant to regulations  
22 of the board.

23 Section 6. Qualifications for License.--(a) An applicant  
24 shall be qualified for a license to practice psychology after  
25 submission of proof satisfactory to the board that the  
26 applicant:

27 (1) is of acceptable moral character; and

28 (2) is either (i) a graduate of an accredited college or  
29 university holding a degree of Doctor of Philosophy in  
30 psychology, Doctor of Psychology, or Doctor of Education in

1 psychology and has not less than two years of supervised  
2 experience[, at least one of which was obtained subsequent to  
3 the granting of the doctoral degree], provided that such  
4 experience is acceptable to the board pursuant to criteria  
5 established by board regulations, or (ii) a graduate of an  
6 accredited college or university holding a doctoral degree in a  
7 field related to psychology and has not less than two years of  
8 supervised experience[, at least one of which was obtained  
9 subsequent to the granting of the doctoral degree], provided  
10 such experience and training are acceptable to the board as  
11 being equivalent to the above pursuant to criteria established  
12 by board regulations; and

13 (3) has passed an examination duly adopted by the board; and

14 (4) has paid all appropriate fees in the amount determined  
15 by the board by regulation; and

16 (5) has not been convicted of a felony under the act of  
17 April 14, 1972 (P.L.233, No.64), known as "The Controlled  
18 Substance, Drug, Device and Cosmetic Act," or of an offense  
19 under the laws of another jurisdiction which if committed in  
20 this Commonwealth would be a felony under "The Controlled  
21 Substance, Drug, Device and Cosmetic Act," unless:

22 (i) at least ten years have elapsed from the date of  
23 conviction;

24 (ii) the applicant satisfactorily demonstrates to the board  
25 that he has made significant progress in personal rehabilitation  
26 since the conviction such that licensure of the applicant should  
27 not be expected to create a substantial risk of harm to the  
28 health and safety of his patients or the public or a substantial  
29 risk of further criminal violations; and

30 (iii) the applicant otherwise satisfies the qualifications

1 contained in or authorized by this act.

2 As used in this clause the term "convicted" shall include a  
3 judgment, an admission of guilt or a plea of nolo contendere.

4 (b) Each applicant shall submit an affidavit or affirmation  
5 of the applicant as to the verity of the application. Any  
6 applicant who knowingly or willfully makes a false statement of  
7 fact in his application shall be subject to prosecution for  
8 perjury.

9 (c) In case of failure at any examination, the applicant  
10 shall have[, after the expiration of six months and within two  
11 years,] the privilege of a second examination by the board with  
12 the payment of an additional fee. The board may adopt  
13 regulations governing the eligibility of applicants who have  
14 failed to pass two examinations in order to be admitted to  
15 subsequent examinations.

16 Section 8. Refusal, Suspension or Revocation of License.--

17 (a) The board may refuse to issue a license or may suspend,  
18 revoke, limit or restrict a license or reprimand a licensee for  
19 any of the following reasons:

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

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

24 (3) Practicing fraud or deceit in obtaining a license to  
25 practice psychology.

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

28 (5) Submitting a false or deceptive biennial registration to  
29 the board.

30 (6) Being convicted of a felony in any state or Federal

1 court or being convicted of the equivalent of a felony in any  
2 foreign country, or being convicted of a misdemeanor in the  
3 practice of psychology. As used in this clause the term  
4 "convicted" includes a finding or verdict of guilt, an admission  
5 of guilt or a plea of nolo contendere or receiving probation  
6 without verdict, disposition in lieu of trial or an Accelerated  
7 Rehabilitative Disposition in the disposition of felony charges.

8 (7) Having a license to practice psychology suspended,  
9 revoked or refused or receiving other disciplinary action by the  
10 proper psychology licensing authority of another state,  
11 territory or country.

12 (8) Being unable to practice psychology with reasonable  
13 skill and safety by reason of illness, drunkenness, excessive  
14 use of drugs, narcotics, chemicals or any other type of  
15 material, or as a result of any mental or physical condition. In  
16 enforcing this clause, the board shall, upon probable cause,  
17 have authority to compel a psychologist to submit to a mental or  
18 physical examination by a physician or a psychologist approved  
19 by the board. Failure of a psychologist to submit to such  
20 examination when directed by the board, unless such failure is  
21 due to circumstances beyond his or her control, shall constitute  
22 an admission of the allegations against him or her, consequent  
23 upon which a default and final order may be entered without the  
24 taking of testimony or presentation of evidence. A psychologist  
25 affected under this clause shall at reasonable intervals, as  
26 determined by the board, be afforded an opportunity to  
27 demonstrate that he or she can resume a competent practice of  
28 psychology with reasonable skill and safety.

29 (9) Violating a lawful regulation promulgated by the board,  
30 including, but not limited to, ethical regulations, or violating

1 a lawful order of the board previously entered in a disciplinary  
2 proceeding.

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

6 (11) Committing immoral or unprofessional conduct.  
7 Unprofessional conduct shall include any departure from, or  
8 failure to conform to, the standards of acceptable and  
9 prevailing psychological practice. Actual injury to a client  
10 need not be established.

11 (12) Soliciting any engagement to perform professional  
12 services by any direct, in-person or uninvited soliciting  
13 through the use of coercion, duress, compulsion, intimidation,  
14 threats, overreaching or harassing conduct.

15 (13) Failing to perform any statutory obligation placed upon  
16 a licensed psychologist.

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

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

22 (b) When the board finds that the license or application for  
23 license of any person may be refused, revoked, restricted or  
24 suspended under the terms of subsection (a), the board may:

25 (1) Deny the application for a license.

26 (2) Administer a public reprimand.

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

29 (4) Require a licensee to submit to the care, counseling or  
30 treatment of a physician or a psychologist designated by the

1 board.

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

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

8 (7) Take other action as the board in the board's discretion  
9 considers proper, including precluding a suspended licensee from  
10 engaging in counseling or any other form of mental health  
11 practice.

12 (c) All actions of the board shall be taken subject to the  
13 right of notice, hearing and adjudication and the right of  
14 appeal therefrom in accordance with Title 2 of the Pennsylvania  
15 Consolidated Statutes (relating to administrative law and  
16 procedure).

17 (d) The board shall temporarily suspend a license under  
18 circumstances as determined by the board to be an immediate and  
19 clear danger to the public health and safety. The board shall  
20 issue an order to that effect without a hearing, but upon due  
21 notice to the licensee concerned at his or her last known  
22 address, which shall include a written statement of all  
23 allegations against the licensee. The provisions of subsection  
24 (c) shall not apply to temporary suspension. The board shall  
25 thereupon commence formal action to suspend, revoke or restrict  
26 the license of the person concerned as otherwise provided for in  
27 this act. All actions shall be taken promptly and without delay.  
28 Within thirty days following the issuance of an order  
29 temporarily suspending a license, the board shall conduct, or  
30 cause to be conducted, a preliminary hearing to determine that

1 there is a prima facie case supporting the suspension. The  
2 licensee whose license has been temporarily suspended may be  
3 present at the preliminary hearing and may be represented by  
4 counsel, cross examine witnesses, inspect physical evidence,  
5 call witnesses, offer evidence and testimony and make a record  
6 of the proceedings. If it is determined that there is not a  
7 prima facie case, the suspended license shall be immediately  
8 restored. The temporary suspension shall remain in effect until  
9 vacated by the board but in no event longer than one hundred  
10 eighty days.

11 (e) A license issued under this act shall automatically be  
12 suspended upon the legal commitment of a licensee to an  
13 institution because of mental incompetence from any cause upon  
14 filing with the board of a certified copy of such commitment,  
15 conviction of a felony under the act of April 14, 1972 (P.L.233,  
16 No.64), known as "The Controlled Substance, Drug, Device and  
17 Cosmetic Act," or conviction of an offense under the laws of  
18 another jurisdiction, which, if committed in Pennsylvania, would  
19 be a felony under "The Controlled Substance, Drug, Device and  
20 Cosmetic Act." As used in this section the term "conviction"  
21 shall include a judgment, an admission of guilt or a plea of  
22 nolo contendere. Automatic suspension under this section shall  
23 not be stayed pending an appeal of conviction. Restoration of  
24 such license shall be made as provided in this act for  
25 revocation or suspension of such license.

26 Section 8.1. Reporting of Multiple Licensure.--Any licensed  
27 psychologist of this Commonwealth who is also licensed to  
28 practice psychology or another health profession in any other  
29 state, territory or country shall report this information to the  
30 board on the biennial registration application. Any disciplinary

1 action taken in any other state, territory or country shall be  
2 reported to the board on the biennial registration application  
3 or within ninety days of disposition, whichever is sooner.  
4 Multiple licensure shall be noted by the board on the  
5 psychologist's record, and such state, territory or country  
6 shall be notified by the board of any disciplinary actions taken  
7 against said psychologist in this Commonwealth.

8 Section 2. Repeals are as follows:

9 (1) The General Assembly declares that the repeal under  
10 paragraph (2) is necessary to effectuate the amendment of  
11 sections 2, 3, 6, 8 and 8.1 of the act.

12 (2) Section 20 of the act of April 25, 1986 (P.L.89,  
13 No.33), entitled "An act amending the act of March 23, 1972  
14 (P.L.136, No.52), entitled 'An act relating to the practice  
15 of psychology, providing for licensing of psychologists,  
16 making certain acts illegal and providing penalties,'  
17 REESTABLISHING THE STATE BOARD OF PSYCHOLOGIST EXAMINERS AS <--  
18 THE STATE BOARD OF PSYCHOLOGY; PROVIDING FOR ITS COMPOSITION,  
19 POWERS AND DUTIES; CHANGING PROVISIONS RELATING TO THE  
20 ISSUANCE OF LICENSES AND THE SUSPENSION AND REVOCATION OF  
21 LICENSES; PROVIDING FOR FEES; PROVIDING FOR PENALTIES; AND  
22 MAKING REPEALS," is repealed.

23 Section 3. This act shall take effect ~~as follows:~~ <--

24 ~~(1) The addition of clause (10.1) of section 3 of the~~  
25 ~~act shall take effect June 30, 2017, or immediately,~~  
26 ~~whichever is later.~~

27 ~~(2) This section shall take effect immediately.~~

28 ~~(3) The remainder of this act shall take effect in 60~~  
29 days.