

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 980 Session of  
2013

INTRODUCED BY GORDNER, ARGALL, RAFFERTY, VANCE, SCHWANK,  
ALLOWAY, BAKER AND SOLOBAY, JUNE 3, 2013

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
JUNE 3, 2013

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; making editorial changes;  
7 and making a repeal.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Sections 2, 3, 6, 8 and 8.1 of the act of March  
11 23, 1972 (P.L.136, No.52), known as the Professional  
12 Psychologists Practice Act, amended or added April 25, 1986  
13 (P.L.89, No.33), are amended to read:

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

15 "Board" means the State Board of Psychology in the Department  
16 of State.

17 "Commissioner" means the Commissioner of Professional and  
18 Occupational Affairs in the Department of State.

19 "Person" means an individual, corporation, partnership,  
20 association, unincorporated organization or a government or any

1 political subdivision, agency or instrumentality thereof.

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

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

23 (ii) (a) "Measuring and testing," consisting of the  
24 psychological assessment and evaluation of abilities, attitudes,  
25 aptitudes, achievements, adjustments, motives, personality  
26 dynamics and/or other psychological attributes of individuals,  
27 or groups of individuals by means of standardized measurements  
28 or other methods, techniques or procedures recognized by the  
29 science and profession of psychology, (b) "psychological  
30 methods," consisting of the application of principles of

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

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

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

20 (2) Persons licensed to practice any of the other healing  
21 arts in this Commonwealth shall be exempt from the provisions of  
22 this act. Nothing in this act shall be construed to limit the  
23 practice of persons licensed to practice any of the other  
24 healing arts in any way. Nothing herein shall be construed as  
25 authorizing any person licensed as a psychologist to engage in  
26 any manner in the practice of any of the other healing arts as  
27 defined in the laws of this Commonwealth on the effective date  
28 of this act. The psychologist who engages in practice shall  
29 assist his client in obtaining professional help for all  
30 relevant aspects of his problem that fall outside the boundaries

1 of the psychologist's own competence. Provision must be made for  
2 the diagnosis and treatment of relevant health care problems by  
3 an appropriate qualified practitioner of the other healing arts.  
4 Nothing herein shall be construed as extending to a person  
5 licensed as a psychologist any authority or rights which are not  
6 granted under this act.

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

17 (4) Nothing in this act shall be construed to limit the  
18 practice of psychology or use of an official title on the part  
19 of a person employed as a psychologist by a Federal[, State,  
20 county, or municipal] agency[, or other political subdivisions,]  
21 or those persons certified and employed as school psychologists  
22 in the public and private schools of the Commonwealth, in so far  
23 as such practice is a part of the normal function of his  
24 position or is performed on behalf of or according to the usual  
25 expectations of his employer.

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

29 (6) Nothing in this act shall be construed to limit the  
30 practice of psychology or use of an official title on the part

1 of a member of the faculty or staff of a duly accredited  
2 university, college[, hospital] or State-approved nonpublic  
3 school in so far as such practice is a part of the normal  
4 function of his position or is performed on behalf of or  
5 according to the usual expectations of his employer. Nothing in  
6 this act shall be construed to limit the practice of psychology  
7 or use of an official title on the part of a student, intern or  
8 resident in psychology, pursuing a course of study in a duly  
9 accredited university, college or hospital or similar training  
10 facility for the qualified training of psychologists, provided  
11 that such practice and use of title constitute a part of his  
12 supervised course of study, and he is designated by such titles  
13 as "psychology intern," "psychology trainee," or other title  
14 clearly indicating such training status. Nothing in this act  
15 shall be construed to limit the activities of a faculty or staff  
16 member of a duly accredited university, college, or hospital, or  
17 research unit of a duly recognized business or industrial firm  
18 or corporation, in the performance of experimental and  
19 scientific research activities for the primary purpose of  
20 contributing to or enlarging upon scientific principles of  
21 psychology. Nothing in this act shall be construed to limit the  
22 use of the term "psychology," "psychologist," or  
23 "psychological," in connection with the aforementioned  
24 experimental or scientific research activities or for the  
25 purpose of publication of the research findings in professional  
26 and scientific journals, or for the purpose of providing  
27 scientific information to any user of such information.

28 (7) Nothing in this act shall be construed to prohibit the  
29 practice of psychology by a person who, in the opinion of the  
30 board meets the minimum qualifications for licensure under this

1 act, provided said person is on temporary assignment in this  
2 Commonwealth, as temporary is defined by board regulation.

3 (7.1) The board may issue a temporary license to an  
4 applicant for licensure as a psychologist who holds a similar or  
5 current license from another state, province or territory and  
6 whose standards, in the opinion of the board, are substantially  
7 equivalent to those required under this act. The board may  
8 refuse a temporary license to a psychologist who is the subject  
9 of past or pending disciplinary action in another jurisdiction.

10 (8) Nothing in this act shall be construed to prohibit  
11 employes of business and industrial organizations from applying  
12 the principles of psychology described in section 2 to the  
13 employment placement, evaluation, selection, promotion or job  
14 adjustment of their own officers or employes or those of any  
15 associated organization. No business or industrial firm or  
16 corporation may sell or offer to the public or to individuals or  
17 to other firms or corporations for remuneration any  
18 psychological acts or services as are part of the practice of  
19 psychology unless such services are performed by individuals  
20 duly and appropriately licensed under this act.

21 (9) Nothing in this act shall be construed to limit the  
22 activities of a clerical or administrative employe in the  
23 performance of duties incidental to and necessary to the work of  
24 a psychologist, provided that the clerical or administrative  
25 employe acts at all times under the supervision of a licensed  
26 psychologist, and provided further that the employe does not  
27 assume to the independent practice of psychology.

28 [(10) Nothing in this act shall be construed to prohibit a  
29 school psychologist certified by the Department of Education  
30 from performing in private practice those acts which he is

permitted to perform in the public and private schools of the Commonwealth.]

(10.1) A school psychologist who currently holds a Department of Education certificate in school psychology or one who is currently enrolled in a program leading to a Department of Education certificate in school psychology within one year after the effective date of this clause may perform in private practice those acts which he is permitted to perform in the public and private schools of this Commonwealth.

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

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

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

(1) is of acceptable moral character; and

(2) is either (i) a graduate of an accredited college or university holding a degree of Doctor of Philosophy in

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

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

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

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

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

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



(iii) the applicant otherwise satisfies the qualifications contained in or authorized by this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

30       (9) Violating a lawful regulation promulgated by the board,

1 including, but not limited to, ethical regulations, or violating  
2 a lawful order of the board previously entered in a disciplinary  
3 proceeding.

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

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

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

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

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

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

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

26 (1) Deny the application for a license.

27 (2) Administer a public reprimand.

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

30 (4) Require a licensee to submit to the care, counseling or

1 treatment of a physician or a psychologist designated by the  
2 board.

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

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

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

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

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

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

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

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

1 board on the biennial registration application. Any disciplinary  
2 action taken in any other state, territory or country shall be  
3 reported to the board on the biennial registration application  
4 or within ninety days of disposition, whichever is sooner.

5 Multiple licensure shall be noted by the board on the  
6 psychologist's record, and such state, territory or country  
7 shall be notified by the board of any disciplinary actions taken  
8 against said psychologist in this Commonwealth.

9 Section 2. Repeal is as follows:

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

13 (2) Section 20 of the act of April 25, 1986 (P.L.89,  
14 No.33), entitled "An act amending the act of March 23, 1972  
15 (P.L.136, No.52), entitled 'An act relating to the practice  
16 of psychology, providing for licensing of psychologists,  
17 making certain acts illegal and providing penalties,'" is  
18 repealed.

19 Section 3. This act shall take effect as follows:

20 (1) Clause (10.1) of section 3 shall take effect June  
21 30, 2015.

22 (2) This section shall take effect immediately.

23 (3) The remainder of this act shall take effect in 60  
24 days.