

HOUSE BILL NO. HB0122

Psychologist licensure.

Sponsored by: Representative(s) Warren, Berger, Craft,
Gingery, Harvey, Iekel and Millin and
Senator(s) Aullman, Burns, Coe, Job, Massie,
Ross and Schiffer

A BILL

for

1 AN ACT relating to the Wyoming state board of psychology;
2 amending the psychologists licensing act; providing for
3 application of licensing act; removing separate licensing
4 requirements related to school psychologists; revising the
5 composition of the state board of psychology as specified;
6 providing for issuance of temporary licenses to practice
7 psychology as specified; revising the grounds and
8 evidentiary standard for disciplinary actions as specified;
9 authorizing the state board to employ specified personnel;
10 amending and adding definitions; and providing for an
11 effective date.

12

13 *Be It Enacted by the Legislature of the State of Wyoming:*

14

1 **Section 1.** W.S. 33-27-113(a)(iii)(intro), by creating
 2 new subparagraphs (E) through (J), (v), (vi), (viii)(A),
 3 (B), by creating new paragraphs (x) through (xii), by
 4 renumbering (x) as (xiii) and by creating new subsections
 5 (b) and (c), 33-27-114(a), (d), (e)(iii)(intro) and
 6 (f)(ii), 33-27-115(a), 33-27-116(a) and by creating a new
 7 subsection (n), 33-27-117(a) through (c) and by creating a
 8 new subsection (e), 33-27-119(a)(i), (ii), (b) and (d),
 9 33-27-120(a), (b)(intro), (i), (iii), (iv), (v), (ix), (x),
 10 (xi), (xiii) and (xvii), 33-27-122(a), (e), (f), (g),
 11 (h)(intro) and (iii) and 33-27-123(a)(intro), (iii), (iv)
 12 and (v) are amended to read:

13

14 **33-27-113. Definitions; application of act.**

15

16 (a) As used in this act:

17

18 (iii) "Practice of psychology" means: ~~the~~
 19 ~~observation, description, evaluation, interpretation and~~
 20 ~~modification of human behavior by the application of~~
 21 ~~psychological principles, methods and procedures, for the~~
 22 ~~purpose of preventing or eliminating symptomatic,~~
 23 ~~maladaptive or undesired behavior and of enhancing~~
 24 ~~interpersonal relationships, work and life adjustment,~~

1 ~~personal effectiveness, behavioral health and mental~~
2 ~~health. Psychological services may be rendered to~~
3 ~~individuals, families, groups and the public. The practice~~
4 ~~of psychology shall be construed within the meaning of this~~
5 ~~definition without regard to whether payment is received~~
6 ~~for services rendered. The practice of psychology~~
7 ~~includes, but is not limited to:~~

8
9 (E) Assessment of individual, family or
10 group behavioral, emotional or intellectual functioning for
11 one (1) or more of the following purposes:

12
13 (I) Diagnosing mental disorders;

14
15 (II) Identifying psychological or
16 neuropsychological aspects of other dysfunctions, diseases
17 or disabilities;

18
19 (III) Evaluating mental or emotional
20 status, including intelligence and aptitude;

21
22 (IV) Identifying personality
23 characteristics;

24

1 (V) Identifying psychological factors
2 influencing well-being;

3

4 (VI) Selecting, placing or referring
5 into treatments, programs or settings;

6

7 (VII) Evaluating the effectiveness of
8 psychological treatments, programs or settings;

9

10 (VIII) Preventing, by the application
11 of psychological principles, methods and procedures, mental
12 disorders or maladaptive behavior related to other
13 dysfunction, disease or disability.

14

15 (F) Engaging in a therapeutic relationship
16 with an individual, family or group for one (1) or more of
17 the following purposes:

18

19 (I) Improving the quality of mental
20 health or social adjustment;

21

22 (II) Reducing, preventing, modifying
23 or eliminating maladaptive or undesired behaviors,

1 cognitions, emotions or psychological or physical
2 characteristics;

3

4 (III) Treating diagnosed mental
5 disorders by the application of psychological principles,
6 methods and procedures;

7

8 (IV) Improving individual performance;

9

10 (V) Modifying cognitions, emotions or
11 behaviors, or any combination of these, in order to
12 influence psychological well-being; or

13

14 (VI) Psychological research.

15

16 (G) Engaging in a psychological consulting
17 relationship with an individual, organization, group or
18 community, or any combination of these, for the purpose of:

19

20 (I) Designing or delivering
21 psychological programs or services;

22

23 (II) Evaluating psychological programs
24 or services; or

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(III) Providing psychological supervision to other psychologists, trainees or other staff members of the psychologist offering psychological services.

(H) Evaluation, diagnosis, or test interpretation including assessment of intellectual ability, learning patterns, achievement, motivation, personality or neurological factors directly related to learning problems in an educational setting;

(J) Counseling services for children or adults for amelioration or prevention of educationally related learning problems.

(v) "Psychologist" means a person licensed to practice psychology under this act;

(vi) "Representation as a psychologist" ~~or school psychologist~~ means using any title or description of services incorporating the words psychology, psychologic, psychological or psychologist or any other

1 term that implies that a person is trained, experienced or
2 an expert in the field of psychology;

3

4 (viii) "Sexual exploitation of a client or
5 patient" means:

6

7 (A) Any ~~verbal behavior~~ offer by a
8 psychologist ~~or school psychologist which involves offers~~
9 ~~of to~~ exchange ~~of~~ professional services for some form of
10 sexual gratification; or

11

12 (B) ~~Unlawful or unprofessional~~ Sexual
13 contact with a client or patient.

14

15 (x) "Assessment" means applying psychological
16 principles, methods or procedures in observation,
17 description, testing, appraisal, evaluation, screening,
18 test interpretation, interviewing, diagnosis of mental
19 disorders, neuropsychological testing, psychological
20 testing or evaluation, psycho-educational testing or
21 evaluation or any combination of these;

22

23 (xi) "Psychological consulting relationship"
24 means the application of psychological principles, methods

1 or procedures in consulting, intervention, program
2 evaluation, organizational psychology, environmental
3 psychology, community psychology, experimental psychology
4 or any combination of these;

5
6 (xii) "Therapeutic relationship" means the
7 application of psychological principles, methods or
8 procedures in psychotherapy, psychoanalysis, therapy,
9 family therapy, marital therapy, couples therapy, play
10 therapy, counseling, rehabilitation, intervention,
11 hypnotherapy, biofeedback, behavior therapy, behavior
12 modification, psychological counseling, human potential
13 psychology, vocational counseling, school counseling,
14 growth psychology, alcohol or substance abuse counseling,
15 remediation or any combination of these;

16
17 ~~(x)~~(xiii) "This act" means W.S. 33-27-113
18 through 33-27-123.

19
20 (b) A person not otherwise exempt from this act is
21 engaged in the practice of psychology when performing any
22 of the activities enumerated in paragraph (a)(iii) of this
23 section, without regard to whether payment is received for
24 services rendered.

1

2 (c) A person is deemed to be practicing as a
3 psychologist within the meaning of this act if the person
4 engages by electronic means within this state in any of the
5 activities enumerated in paragraph (a)(iii) of this
6 section, including, but not limited to, communication using
7 a telephone, the Internet or similar proprietary or common
8 carrier electronic system technology.

9

10 **33-27-114. Exemptions.**

11

12 (a) Nothing in this act shall be construed to prevent
13 members of other recognized professions who are licensed,
14 certified or regulated under the laws of this state as
15 defined in the rules and regulations from rendering
16 services consistent with their professional training and
17 code of ethics, provided that they do not represent
18 themselves to be psychologists. ~~or school psychologists.~~

19

20 (d) Nothing in this act shall be construed to prevent
21 the teaching of psychology, the conducting of psychological
22 research, or the provision of industrial or organizational
23 consultation provided that such teaching, research or
24 consultation does not ~~involve the delivery or supervision~~

1 ~~of direct psychological services to individuals who are~~
2 ~~themselves rather than a third party the intended~~
3 ~~beneficiaries of the services without regard to the source~~
4 ~~or extent of payment for services rendered~~ constitute the
5 practice of psychology. Nothing in this act shall prevent
6 the provision of expert testimony by psychologists who are
7 exempted by this act. Persons holding an earned doctoral
8 degree in psychology from an institution of higher
9 education may use the title "psychologist" in conjunction
10 with the activities permitted in this subsection.

11

12 (e) Nothing in this act shall be construed to prevent
13 the persons described in this subsection from engaging in
14 activities defined as the practice of psychology, provided
15 that the persons shall not represent themselves by the
16 title "psychologist." The persons may use the terms
17 "psychological trainee," "psychological intern,"
18 "psychological resident" or "psychological practitioner"
19 and shall perform their activities under the supervision
20 and responsibility of a licensed psychologist in accordance
21 with the rules promulgated by the board. This subsection
22 shall only apply to:

23

1 (iii) A qualified practitioner holding a ~~masters~~
2 master's degree or doctoral degree in psychology from a
3 program approved by the board while working under the
4 supervision of a licensed psychologist. The board, in its
5 rules and regulations, shall establish:

6
7 (f) Nothing in this act shall be construed to prevent
8 specialists in school psychology from engaging in
9 activities defined as the practice of school psychology,
10 provided that they shall not represent themselves by the
11 title "school psychologist." These persons may perform
12 their activities under the supervision and responsibility
13 of a psychologist ~~or school psychologist~~ in accordance with
14 the rules promulgated by the board. The board, in its
15 rules and regulations, shall establish:

16
17 (ii) The number of specialists that a
18 psychologist ~~or school psychologist~~ may employ;

19
20 **33-27-115. State board of psychology.**

21
22 (a) The Wyoming state board of psychology shall
23 consist of ~~five (5)~~ six (6) licensed psychologists, ~~one (1)~~
24 ~~school psychologist,~~ one (1) psychological practitioner and

1 two (2) public members appointed by the governor. Each
2 member shall be a resident of this state. Each member who
3 is a psychologist ~~or school psychologist~~ shall be licensed
4 under this act and shall have a minimum of three (3) years
5 of post-licensure experience. ~~7, except the first school~~
6 ~~psychologist shall have a minimum of five (5) years~~
7 ~~professional experience.~~ At least one (1) member who is a
8 psychologist shall be engaged full time in the doctoral
9 teaching and training of psychologists, and at least two
10 (2) members who are psychologists shall be engaged full
11 time in the professional practice of psychology. The
12 ~~initial~~ psychological practitioner ~~shall have a minimum of~~
13 ~~five (5) years of professional experience and each~~
14 ~~succeeding psychological practitioner member~~ shall have a
15 minimum of three (3) years post-certification experience.
16 The composition of the board shall represent both the
17 public and private sectors of the practice of psychology.
18 Public members shall not be psychologists, ~~school~~
19 ~~psychologists,~~ psychological practitioners, applicants or
20 former applicants for licensure or certification under this
21 act, members of another health profession, or members of a
22 household that includes a person licensed or certified
23 under this act. Board members shall be appointed who are

1 free from conflict of interest in performing the duties of
2 the board.

3

4 **33-27-116. Powers and duties of the board.**

5

6 (a) In accordance with this act and rules and
7 regulations promulgated under it, the board shall determine
8 a person's initial and continuing qualifications and
9 fitness to practice psychology, ~~or school psychology,~~
10 proceed against the unlawful and unlicensed practice of
11 psychology ~~or school psychology~~ and otherwise enforce this
12 act. ~~The board may employ necessary personnel.~~

13

14 (n) The board may employ or contract with an
15 executive secretary, board counsel and other necessary
16 staff. The executive secretary shall not be a member of
17 the board. The board may set the salary for the executive
18 secretary and board counsel. The salaries of other staff
19 shall be set by the human resources division of the
20 department of administration and information.

21

22 **33-27-117. Requirements for licensure.**

23

1 (a) The board shall issue a license as a psychologist
2 ~~or school psychologist, as appropriate,~~ to any applicant
3 who files an application upon a form and in a manner as
4 prescribed by the board, accompanied by the appropriate fee
5 and who furnishes satisfactory evidence to the board of the
6 following which evidence shall comply with rules and
7 regulations of the board:

8
9 (i) The ~~applicant submits evidence as the board~~
10 ~~deems desirable with due regard to the paramount interests~~
11 ~~of the public regarding his~~ applicant's honesty,
12 truthfulness, integrity and competency;

13
14 (ii) The ~~applicant possesses~~ applicant's receipt
15 of a doctoral degree from a program of graduate study in
16 psychology as defined in the rules and regulations, awarded
17 by an institution of higher education;

18
19 (iii) The ~~applicant demonstrates that he has~~
20 ~~completed two (2) years of supervised professional~~
21 ~~experience, one (1) year of which shall be predoctoral, and~~
22 ~~one (1) year of which shall be postdoctoral~~ applicant's
23 completion of one (1) year of predoctoral supervised
24 experience;

1

2 (iv) The ~~applicant has passed~~ applicant's
3 successful completion of the examination for professional
4 practice in psychology ~~or the national school psychology~~
5 ~~examination,~~ and any other written or oral examinations
6 prescribed by the board. The acceptable level of
7 performance for all examinations and policies regarding
8 reexamination of failed applicants shall be determined by
9 the board.

10

11 (b) The board may waive any examination if a
12 psychologist ~~or school psychologist~~ has been licensed in
13 another jurisdiction and if the requirements for licensure
14 in that jurisdiction are equal to, or exceed, the
15 requirements for licensure in this jurisdiction.

16

17 (c) A person licensed as a psychologist or school
18 psychologist in this state on June 30, ~~1993~~ 2007 shall be
19 deemed to have met all requirements for licensure under
20 this act and shall be eligible for renewal of licensure as
21 a psychologist in accordance with this act.

22

23 (e) The board may issue a temporary license to an
24 applicant who is licensed or certified by a board of

1 psychology of another United States state or territory, or
2 of a foreign county or province whose standards are
3 equivalent to or higher than the requirements for licensure
4 as a psychologist in this state. A temporary licensee may
5 offer services as a psychologist in this state for not more
6 than thirty (30) working days in any year without holding a
7 license issued as provided in this act. The temporary
8 licensee shall report the nature and extent of the
9 licensee's practice in this state to the board if that
10 practice exceeds twenty (20) working days in any one (1)
11 calendar year.

12

13 **33-27-119. Practice without license.**

14

15 (a) No person shall:

16

17 (i) Represent himself as a psychologist; or
18 ~~school psychologist; or~~

19

20 (ii) Engage in the practice of psychology ~~or~~
21 ~~school psychology~~ as defined in this act unless exempted in
22 W.S. 33-27-114.

23

1 (b) Unless exempt under W.S. 33-27-114, any person
2 who represents himself as a psychologist ~~or school~~
3 ~~psychologist~~ or who engages in the practice of psychology
4 ~~or school psychology~~ in violation of this act, is guilty of
5 a misdemeanor punishable by a fine of not more than seven
6 hundred fifty dollars (\$750.00), imprisonment for not more
7 than six (6) months, or both. Each violation shall
8 constitute a separate offense.

9

10 (d) No person whose license to practice as a
11 psychologist ~~or school psychologist~~ in any jurisdiction has
12 been suspended or revoked shall practice psychology ~~or~~
13 ~~school psychology~~ in this state. The board may suspend or
14 revoke the license of that person. The board may issue a
15 new license whenever it deems the issuance to be safe and
16 just.

17

18 **33-27-120. Grounds for denial, suspension or**
19 **revocation of license and other disciplinary sanctions.**

20

21 (a) A psychologist ~~or school psychologist~~ and anyone
22 under his supervision shall conduct his professional
23 activities in conformity with ethical and professional

1 standards promulgated by the board under its rules and
2 regulations.

3

4 (b) The board may suspend, place on probation,
5 require remediation for a specified time to be determined
6 at the discretion of the board, restrict or revoke any
7 license to practice psychology, ~~or school psychology,~~ deny
8 an application for licensure, or take any other action
9 specified in the rules and regulations whenever the board
10 shall find by ~~a preponderance of the~~ clear and convincing
11 evidence, following a hearing conducted by the board
12 pursuant to this act, that the psychologist, ~~school~~
13 ~~psychologist~~ or applicant has engaged in conduct prohibited
14 by this act, rules or regulations promulgated by the board,
15 or in any of the following acts or offenses:

16

17 (i) Fraud in applying for or procuring a license
18 to practice psychology; ~~or school psychology;~~

19

20 (iii) Practicing psychology ~~or school psychology~~
21 in a manner which endangers the welfare of clients or
22 patients;

23

1 (iv) Conviction of a felony that interferes with
2 the ability to practice psychology ~~or school psychology~~ as
3 defined in the rules and regulations;

4
5 (v) Conviction, ~~including a plea of nolo~~
6 ~~contendere, to~~ of any felony or conviction ~~or plea of nolo~~
7 ~~contendere to~~ of any crime or offense that reflects the
8 inability of the practitioner to practice with due regard
9 for the health and safety of clients or patients. A copy
10 of the conviction certified by the clerk of the court
11 entering the conviction is conclusive evidence of the
12 conviction;

13
14 (ix) Malpractice or negligence in the practice
15 of psychology; ~~or school psychology;~~

16
17 (x) Aiding or abetting the practice of
18 psychology ~~or school psychology~~ by a person not licensed by
19 the board;

20
21 (xi) ~~Conviction of~~ Fraud in filing medicare or
22 medicaid claims or in filing claims to any third party
23 payor;

24

1 (xiii) The suspension or revocation by another
2 state of a license to practice psychology; ~~or school~~
3 ~~psychology;~~

4
5 (xvii) Inability to practice psychology ~~or~~
6 ~~school psychology~~ with reasonable skill and safety to
7 patients or clients by reason of illness, inebriation,
8 misuse of drugs, narcotics, alcohol, chemicals or any other
9 substance or as a result of any mental or physical
10 condition.

11
12 **33-27-122. Board hearings and investigations.**

13
14 (a) The board may investigate or cause to be
15 investigated any allegation or evidence that appears to
16 show that a psychologist ~~or school psychologist~~ licensed to
17 practice in this jurisdiction, and anyone under his
18 supervision is, or may be, in violation of this act or of
19 any of the rules and regulations adopted by the board.

20
21 (e) The board may conduct a default hearing if, after
22 due notice, the individual fails or ~~refused~~ refuses to
23 appear. The board shall have the authority to issue
24 subpoenas for production of documents and witnesses and to

1 administer oaths. The board may apply to a court of
2 competent jurisdiction to compel compliance with a
3 subpoena.

4
5 (f) A psychologist ~~or school psychologist~~ may
6 surrender his license when he is charged with ~~unethical~~
7 ~~conduct~~ any violation of this act or board rules and
8 regulations, and such surrender and acceptance by the board
9 shall constitute acknowledgment by the person as an
10 admission of guilt as charged. The circumstances of the
11 surrender shall be reported in the same fashion as a
12 revocation action.

13
14 (g) A psychologist ~~or school psychologist~~ may request
15 in writing to the board that a restriction be placed upon
16 his license to practice. The board, in its discretion, may
17 accept a surrender or grant a request for restriction and
18 shall have the authority to attach restrictions to the
19 license to practice within this state or otherwise to
20 discipline the licensee.

21
22 (h) Subsequent to the holding of a hearing and the
23 taking of evidence by the board as provided for in this
24 section, if a majority of the board finds that a

1 psychologist ~~or school psychologist~~ is in violation of this
2 act or guilty of any of the acts, offenses or conditions as
3 enumerated by the board, the following actions may be
4 taken:

5
6 (iii) The board may impose revocation or
7 suspension of a license, but suspend enforcement thereof by
8 placing the psychologist ~~or school psychologist~~ on
9 probation, which probation shall be revocable if the board
10 finds the conditions of the probation order are not being
11 followed. As a condition of probation the board may
12 require the psychologist ~~or school psychologist~~ to submit
13 to care, counseling or treatment by a professional
14 designated by the board. The expense of the action shall
15 be borne by the probationer. The board may at any time
16 modify the conditions of the probation and may include
17 among them any reasonable condition for the purpose of the
18 protection of the public, or for the purpose of the
19 rehabilitation of the probationer, or both;

20

21 **33-27-123. Privileged communication.**

22

23 (a) In judicial proceedings, whether civil, criminal,
24 or juvenile, in legislative and administrative proceedings,

1 and in proceedings preliminary and ancillary thereto, a
2 patient or client, or his guardian or personal
3 representative, may refuse to disclose or prevent the
4 disclosure of confidential information, including
5 information contained in administrative records,
6 communicated to a person licensed or otherwise authorized
7 to practice under this act, or to persons reasonably
8 believed by the patient or client to be so licensed, and
9 their agents, for the purpose of diagnosis, evaluation or
10 treatment of any mental or emotional condition or disorder.
11 The psychologist ~~or school psychologist~~ shall not disclose
12 any information communicated as described above in the
13 absence of an express waiver of the privilege except in the
14 following circumstances:

15

16 (iii) Where such information is necessary for
17 the psychologist ~~or school psychologist~~ to defend against a
18 malpractice action brought by the patient or client;

19

20 (iv) Where an immediate threat of physical
21 violence against a readily identifiable victim is disclosed
22 to the psychologist; ~~or school psychologist;~~

23

1 (v) In the context of civil commitment
2 proceedings, where an immediate threat of self-inflicted
3 damage is disclosed to the psychologist; ~~or school~~
4 ~~psychologist,~~

5

6 **Section 2.** W.S. 33-27-113(a)(iii)(A) through (D),
7 (vii) and (ix) is repealed.

8

9 **Section 3.** This act is effective July 1, 2007.

10

11

(END)