



# Ohio Legislative Service Commission

## Final Analysis

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### Sub. H.B. 83

130th General Assembly  
(As Passed by the General Assembly)

**Reps.** Hackett, Beck, Carney, Ramos, Anielski, Antonio, Bishoff, Brown, Burkley, Celebrezze, Driehaus, Foley, Grossman, Letson, McClain, Milkovich, O'Brien, Pillich, Rogers, Sears, Winburn, Batchelder

**Sens.** Tavares, Bacon, Balderson, Brown, Faber, Gentile, Jones, Lehner, Oelslager, Patton, Seitz, Uecker

**Effective date:** March 20, 2014

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## ACT SUMMARY

- Modifies application and examination requirements for licenses issued by the State Board of Psychology and increases the application fee.
- Makes changes regarding who is exempted from licensure.
- Modifies the license renewal process and, on July 1, 2016, increases renewal fees by \$10.
- Creates a retired license status for license holders who have retired from the practice of psychology or school psychology.
- Requires the Board to investigate alleged violations of laws and rules governing the practice of psychology in Ohio and permits the Board to examine witnesses, administer oaths, and issue subpoenas as part of its investigations.
- Establishes eight new reasons for which the Board may take disciplinary action against an applicant or a license holder.
- Permits the Board to require an applicant or a license holder who is subject to disciplinary action to (1) limit or restrict the areas of practice, (2) submit to mental, substance abuse, or physical evaluations, or (3) complete remedial education and training.

- Permits the Board to use a telephone conference call to conduct an emergency meeting to suspend a license prior to holding a hearing if there is an immediate threat to the public, but otherwise prohibits the Board from conducting business via teleconference.
- Requires the Board to establish a case-management schedule for pre-hearing procedures.
- Permits the Board to require a person seeking restoration of a license to (1) submit to mental, substance abuse, cognitive, or physical evaluations and (2) participate in Board processes designed to expose the applicant to the laws and rules governing the practice of psychology in Ohio.
- Requires the Board to adopt rules governing telepsychology in Ohio.
- Permits the Board to approve or establish a colleague assistance program.
- Clarifies the distinction between school psychologists licensed by the Board and school psychologists licensed by the State Board of Education.
- Requires the Board to charge a \$40 fee for written verification of license status.

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## CONTENT AND OPERATION

### Licensure

#### Application

The act requires each applicant for a psychologist or school psychologist license issued by the State Board of Psychology to file an application with the executive director of the Board, rather than the Board's secretary as required by former law. The Board may appoint a Board member or the executive director to serve as the entrance examiner who, under law unchanged by the act, must determine the sufficiency of an applicant's qualifications for admission to the appropriate examination.<sup>1</sup>

#### Psychologist license application

With respect to eligibility for admission to the psychologist licensing examination, the act removes provisions that:

--Required an applicant to be a U.S. citizen or to have legally declared an intention of becoming a citizen; and

--Permitted the Board to deem a doctoral degree to be the equivalent of a doctoral degree in psychology or school psychology if the applicant (a) not later than June 6, 2009, enrolled in an educational institution recognized by national or regional accrediting agencies and (b) received an earned doctoral degree not later than April 7, 2017.

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<sup>1</sup> R.C. 4732.09 and 4732.10(A).



All other requirements for admission to the examination are unchanged by the act – an applicant must be at least 21 years old and of good moral character, meet education requirements, and have at least two years of supervised professional experience in psychological work.<sup>2</sup>

### **School psychologist license application**

With respect to admission to the examination to be licensed by the Psychology Board as a school psychologist, the act removes a provision requiring the applicant to be a U.S. citizen or to have legally declared an intention of becoming a citizen. All other requirements for admission to the examination are unchanged – an applicant must be at least 21 years old and of good moral character; have at least a master's degree in school psychology; and have completed at least 60 quarter hours of graduate-level study in school psychology, an internship meeting specified criteria, and, in addition to the internship, 27 months of full-time experience as a certified school psychologist.<sup>3</sup>

### **Examination**

The act changes examination requirements for psychologist and school psychologist licenses. In addition, it requires an applicant for a psychologist or school psychologist license who is licensed or certified in another state or territory, or holds a diploma issued by the American Board of Psychology, to take the examination. Prior law gave the Board discretion to decide whether the applicant must submit to examination.<sup>4</sup>

### **Psychologist license examination**

The act requires an applicant for a psychologist license to earn a score acceptable to the Board on an examination selected by the Board, rather than on an examination conducted by the Board.<sup>5</sup> The applicant must follow all necessary procedures and pay all necessary fees for the examination. An applicant who achieves an acceptable score on the examination selected by the Board as a candidate in another state or Canadian province before or after submitting an application to the Board must cause the score to be submitted directly to the Board's executive director.

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<sup>2</sup> R.C. 4732.10(B); conforming change in R.C. 5120.55.

<sup>3</sup> R.C. 4732.10(C).

<sup>4</sup> R.C. 4732.15 (repealed); conforming changes in R.C. 102.02, 102.022, 102.03, 2152.54, 2919.271, 2945.37, and 5122.01.

<sup>5</sup> R.C. 4732.11(A)(1) and 4732.12.



An applicant who fails to earn a score acceptable to the Board may be admitted to a subsequent examination no less than 30 days after the initial examination. After failing to earn the score on three consecutive examinations, an applicant must wait six months before being admitted to another examination. An applicant who in nine attempts fails to achieve the acceptable score is not eligible for additional admissions to the examination, and the application is to be permanently closed.<sup>6</sup>

The act authorizes the Board, in addition, to require an applicant for a psychologist license to earn a passing score on an oral or written examination that covers one or more of the following: (1) provisions of the Revised Code and administrative rules governing the practice of psychology, (2) related provisions of the Revised Code, (3) professional ethics principles, and (4) professional standards of care. The Board may establish procedures designed to expose the applicant to the subject matter of this examination.<sup>7</sup>

### **School psychologist license examination**

An applicant for a school psychologist license must earn a score acceptable to the Board on an examination selected by the Board, rather than a score acceptable to a school psychologist licensing committee on an oral or written examination conducted by that committee as currently required.<sup>8</sup> The applicant must follow all necessary procedures and pay all necessary fees for the examination.<sup>9</sup>

The act also authorizes the Board to require an applicant for a school psychologist license to earn a passing score on an examination that covers one or more of the following: (1) provisions of the Revised Code and rules governing the practice of psychology, (2) related provisions of the Revised Code, (3) professional ethics principles, and (4) professional standards of care. The Board may establish procedures designed to expose the applicant to the subject matter of these examinations.<sup>10</sup>

The Board may delegate, to a school psychology examination committee that the act requires it to appoint, authority to develop this examination and any procedures to expose the applicant to the subject matter. This committee replaces the former school psychology licensing committee. The membership of the committee created by the act

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<sup>6</sup> R.C. 4732.11(A)(1).

<sup>7</sup> R.C. 4732.11(A)(2) and (C).

<sup>8</sup> R.C. 4732.11(B)(1) and 4732.12.

<sup>9</sup> R.C. 4732.11(B)(1).

<sup>10</sup> R.C. 4732.11(B)(2) and (C).

and terms of that committee's members are the same as those for the former committee.<sup>11</sup>

### **Application fee**

The act requires an applicant for a license issued by the Board to pay a fee of \$300. Under former law, an applicant was required to pay a fee established by the Board, which had to be at least \$75 and not more than \$150. As of 2013, the Board had set the application fee at \$125.<sup>12</sup>

### **Persons exempt from licensure**

The act adds all the persons described below to those who are exempt from licensure by the Board.

#### **Persons supervised by a licensed psychologist or school psychologist**

Under the act, a person who is working under the supervision of a licensed psychologist or school psychologist is exempt from licensure, provided that the person is registered with the Board. The Board must adopt rules regarding the registration process and the supervisory relationship. This exemption replaces two exemptions in former law: (1) an exemption for a supervisory relationship that applied only to persons holding a master's or doctoral degree in psychology from a program approved by the Board while working under the supervision of a licensed psychologist and (2) an exemption for any person working under the supervision of a licensed psychologist or school psychologist who met specified requirements.<sup>13</sup>

#### **Religious officials**

The act creates an exemption from licensure for recognized religious officials conducting counseling, when (1) the counseling activities are within the scope of their regular duties and are performed under the auspices or sponsorship of an established and legally cognizable religious denomination or sect, as defined in current federal tax regulations, and (2) the religious official does not refer to the official's self as a psychologist and remains accountable to the established authority of the religious denomination or sect. The exemption applies to ministers, priests, rabbis, imams, Christian Science practitioners, and other persons recognized by the Board. Former law

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<sup>11</sup> R.C. 4732.11(D).

<sup>12</sup> R.C. 4732.11, 4732.12, and 4732.15; Ohio Administrative Code 4732-1-03(A).

<sup>13</sup> R.C. 4732.22(A)(3) and (B).



provided an exemption only to "duly ordained ministers functioning in their ministerial capacity."<sup>14</sup>

### **Psychologists in academic settings**

The act creates an exemption from licensure for persons using the term "social psychologist," "experimental psychologist," "developmental psychologist," "research psychologist," "cognitive psychologist," and other terms used by those in academic and research settings who (1) possess doctoral degrees in psychology from educational institutions accredited or recognized by national or regional accrediting agencies as maintaining satisfactory standards and (2) do not use such a term in soliciting or rendering professional psychological services. Former law provided an exemption only for persons using the term "social psychologist."<sup>15</sup>

### **Students**

To be exempt from licensure under the act, a student must be supervised by someone who is licensed by the Board or designated as a qualified supervisor pursuant to the Board's rules. Under former law, the person supervising the student had to be licensed, or exempt from licensure as a (1) duly ordained minister functioning in a ministerial capacity, (2) qualified social worker functioning in the capacity of a social worker, (3) professional licensed, certified, or registered as part of any other provision regulated by the Revised Code who was practicing within the standards and ethics of that profession, or (4) person with an earned doctorate degree in social psychology or sociology with a social psychology major using the term "social psychologist." The act removes a requirement that, to be exempt, a student must hold himself or herself out to the public only by clearly indicating student status and the profession in which he or she is being trained.<sup>16</sup>

### **Nonresidents**

For a nonresident applicant seeking a review of qualifications and permission from the Board to practice psychology in Ohio for no more than 30 days per year to be exempt from Ohio licensure, the applicant must pay a fee established by the Board, which must be not less than \$75 and not more than \$150, no part of which may be returned. The Board is authorized to adopt rules for the purpose of recognizing a

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<sup>14</sup> R.C. 4732.22(A)(5).

<sup>15</sup> R.C. 4732.22(A)(8).

<sup>16</sup> R.C. 4732.22(A)(4).



nonresident's interjurisdictional practice credentials granted by the Association of State and Provincial Psychology Boards and other relevant professional organizations.<sup>17</sup>

### **Persons no longer exempt from licensure**

The act removes both of the following as persons who are exempt from licensure:

--Qualified social workers while functioning in their capacity as social workers;<sup>18</sup>

--Persons in any capacity offering services of a psychological nature, provided they neither hold themselves out to the public by the title of psychologist or school psychologist nor utilize psychological procedures that the Board judges by uniform rule in accordance with the Administrative Procedure Act to be a serious hazard to mental health and to require professional expertise in psychology.<sup>19</sup>

### **License renewal**

#### **Biennial renewal process**

The act requires each person who holds an active license issued by the Board to register with the Board in each even-numbered year in a format and manner, rather than on a form, prescribed by the Board.

Under law unchanged by the act, a notice must be sent to each license holder before August 1 of each even-numbered year specifying that the biennial registration form and renewal fee must be submitted. The act requires that this notice be sent by the Board rather than the secretary. The notice must specify two things: (1) the form and fee are due by September 30 and (2) a license holder's continuing education compliance must be completed by August 31. The notice must be sent to the last provided official mailing address, rather than the last known address as required by former law. The act removes a requirement that a second notice be sent on September 15 of each even-numbered year to each person who has not paid the fee or submitted the registration form.

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<sup>17</sup> R.C. 4732.22(A)(2) and 4732.221.

<sup>18</sup> R.C. 4732.22(A).

<sup>19</sup> R.C. 4732.23 (repealed); conforming changes in R.C. 4755.13 and 4757.42.



The act specifies that a license will automatically expire, rather than automatically be suspended, if the biennial registration form, renewal fee, or report of continuing education compliance is not received by September 30 of a renewal year.<sup>20</sup>

### **Renewal fees**

The act maintains the current renewal fee of \$350 through June 30, 2016. It then increases the renewal fee as follows:

--From July 1, 2016 through June 30, 2020: \$360;

--Starting on July 1, 2020: \$365.

This fee must be paid to the Board instead of the secretary as had been required by former law.

The act specifies that a person licensed for the first time on or before September 30, rather than August 31, of an even-numbered year is required to register again on or before September 30, rather than August 31, of the next even-numbered year.<sup>21</sup>

### **Continuing education**

#### **Professional conduct and ethics**

Under former law, as part of the 23 continuing education hours that must be completed by the end of August of each even-numbered year, a license holder had to complete at least three hours in professional conduct or ethics. The act increases this requirement to at least four hours and specifies that, in addition to professional conduct and ethics, this portion of the continuing education requirement may include education in the role of culture, ethnic identity, or both in the provision of psychological assessment, consultation, or psychological interventions, or a combination thereof.<sup>22</sup>

#### **Documentation**

The act requires a license holder to record completion of a continuing education program, in accordance with the Board's rules, with either of the following: (1) the Ohio Psychological Association, which is the same as under continuing law, or (2) the Ohio

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<sup>20</sup> R.C. 4732.14(A) and (B).

<sup>21</sup> R.C. 4732.14(A).

<sup>22</sup> R.C. 4732.141(A)(1).



School Psychologists Association, instead of the State Board of Education as required by former law.<sup>23</sup>

The act removes a provision of law that permitted the Board to request documentation of completion of continuing education from license holders selected at random.<sup>24</sup>

Under the act, the Board may require a license holder to show evidence of completion of specific continuing education coursework as part of the process of registering or continuing to register a person working under the license holder's supervision and conducting psychological or psychological work or training supervision. Procedures for the completion, verification, and documentation of the continuing education must be specified in the Board's rules. A license holder completing this continuing education is permitted to receive credit toward the four-hour professional conduct and ethics training during the next continuing education period.<sup>25</sup>

### **Retired license status**

The act permits a license holder who retires from the practice of psychology or school psychology to request during the biennial license registration process that the license holder's license be placed in "licensed psychologist-retired" or "licensed school psychologist-retired" status. The license holder must pay a \$50 fee for this license status. Once the license is placed in retired status, the license holder is prohibited from practicing psychology or school psychology in Ohio.

Procedures for reinstating a retired license must be established in rules adopted by the Board.<sup>26</sup>

### **Process to reinstate expired license**

The Board may reinstate an expired, rather than suspended, license within five years upon (1) payment of the current registration fee and a penalty and (2) receipt of the registration form. Under both the act and former law, the amount of the penalty is

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<sup>23</sup> R.C. 4732.141(A)(2), (B)(2), and (E).

<sup>24</sup> R.C. 4732.141(E).

<sup>25</sup> R.C. 4732.141(H).

<sup>26</sup> R.C. 4732.142; conforming changes in R.C. 4732.13 and 4732.14(B).



established by the Board. But the act permits the Board to set the penalty to up to \$250 (instead of up to \$50).<sup>27</sup>

### **Required notification of change in personal information**

The act shortens the deadline for notifying the executive director, rather than the secretary, of any change in office address or employment from within 90 days to within 60 days of the change. The act also requires a license holder to notify the executive director of any change in the license holder's official mailing address.<sup>28</sup>

### **Investigatory and subpoena power**

The act requires that the Board investigate alleged violations of laws and rules governing the practice of psychology in Ohio. Each investigation must be assigned by the executive director or designated investigator to one of the members of the Board, who is to serve as the supervising member of the investigation.

As part of its conduct of investigations, the Board is permitted to examine witnesses, administer oaths, and issue subpoenas, except that the Board may not compel the attendance of the respondent in an investigation. A subpoena for patient record information may be issued only if the supervising member, executive director, secretary, and an attorney from the office of the Attorney General determine that there is probable cause to believe that the complaint alleges a violation of laws governing the practice of psychology in Ohio and that the records sought are relevant to the alleged violation and material to the investigation. No member of the Board who supervises the investigation or approves the issuance of a subpoena for records may participate in further adjudication of the case. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation. On failure of a person to comply with a subpoena, and after reasonable notice to that person, the Board may move for an order compelling the production of records or persons pursuant to the Rules of Civil Procedure.

A subpoena issued by the Board may be served by a sheriff, sheriff's deputy, or a board employee designated by the Board. Service of a subpoena may be made by delivering a copy of the subpoena to the person named in it, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is a person whose practice is authorized by the laws governing the practice of psychology in Ohio, service may be made by certified mail, return receipt requested, and the subpoena

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<sup>27</sup> R.C. 4732.14(B).

<sup>28</sup> R.C. 4732.14(C).



must be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena must receive the same fees as a sheriff. Each witness who appears before the Board pursuant to a subpoena must receive the fees and mileage provided for witnesses under the Administrative Procedure Act (Chapter 119.).<sup>29</sup>

The Board must conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the Board. The Board must not make public the names or any other identifying information about patients or complainants unless proper consent is given or, in the case of a patient, the patient privilege has been waived by the patient. Information received by the Board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The Board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other government agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information must comply with the same requirements regarding confidentiality as the Board, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession.

In a judicial proceeding, any information the Board receives pursuant to an investigation may be admitted into evidence only in accordance with the Ohio Rules of Evidence, but the court must require that appropriate measures be taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the Board when the information was in the Board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.<sup>30</sup>

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<sup>29</sup> R.C. 4732.16(A).

<sup>30</sup> R.C. 4732.16(B).



## Disciplinary actions

### Grounds for discipline

The act creates eight new grounds on which the Board may take disciplinary action against an applicant or a license holder:

--A judicial finding of eligibility for intervention in lieu of conviction for a felony or any offense involving moral turpitude in an Ohio court, a court of any other state, or a federal court;

--Inability to practice according to acceptable and prevailing standards of care by reason of a mental, emotional, physiological, or pharmacological condition or substance abuse. This ground replaces prior law that permitted the Board to take disciplinary action for a person's use of any controlled substance or alcoholic beverage to an extent that the use impaired the person's ability to perform the work of a psychologist or school psychologist safely.

--Any of the following actions taken by the agency responsible for authorizing, certifying, or regulating the person's practice of a health care occupation or provision of health care services in Ohio or another jurisdiction, as evidenced by a certified copy of that agency's records and findings for any reason other than the nonpayment of fees:

- (1) Limitation, revocation, or suspension of the person's license to practice;
- (2) Acceptance of the person's license surrender;
- (3) Denial of a license to the person;
- (4) Refusal to renew or reinstate the person's license;
- (5) Imposition of probation on the person;
- (6) Issuance of an order of censure or other reprimand against the person; or
- (7) Other negative action or finding against the person about which information is available to the public.

--Offering or rendering psychological services after a license issued by the Board has expired due to failure to timely register or complete continuing education requirements;

--Offering or rendering psychological services after a license issued by the Board has been placed in retired status;



--Unless the person is a school psychologist licensed by the State Board of Education, (1) offering or rendering school psychological services after a license issued by the Psychology Board has expired due to failure to timely register or complete continuing education requirements or (2) offering or rendering school psychological services after a license issued by the Psychology Board has been placed in retired status;

--Violating any adjudication order or consent agreement adopted by the Board;

--Failure to submit to mental, cognitive, substance abuse, or medical evaluations, or a combination of these evaluations, ordered by the Board in a disciplinary action when the license holder is alleged to be unable to practice according to acceptable and prevailing standards of care.<sup>31</sup>

The act specifies that the Board's authority to take disciplinary action for a conviction of a felony or any offense involving moral turpitude includes pleas of guilty or no contest.<sup>32</sup> Other reasons for which the Board may take disciplinary action under law unchanged by the act include (1) using fraud or deceit in procuring a license, (2) accepting commissions or rebates for referring patients to other professionals, (3) willful, unauthorized communication of information received in professional confidence, (4) being negligent in the practice of psychology or school psychology, (5) violating any rule of professional conduct promulgated by the Board, (6) practicing in an area of psychology for which the person is clearly untrained or incompetent, (7) an adjudication by a court that the person is incompetent for the purpose of holding the license, and (8) waiving the payment of all or any part of a deductible or copayment as an enticement to a patient to receive health care services from that provider or advertising that the person will waive that payment.<sup>33</sup>

### **Permitted disciplinary actions**

On determining that there are grounds for discipline, the Board is permitted under continuing law to take one or more disciplinary actions. Permitted actions are refusing to issue a license, issuing a reprimand to a license holder, suspending a license, or revoking a license. The act adds to the actions the Board may take by allowing it to (1) limit or restrict the areas of practice of an applicant or a license holder, (2) require mental, substance abuse, or physical evaluations, or any combination of these evaluations, of an applicant or a license holder, or (3) require remedial education and training of an applicant or a license holder.

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<sup>31</sup> R.C. 4732.17(A)(2), (7), (13), (14), (15), (16), (17), and (18).

<sup>32</sup> R.C. 4732.17(A)(1).

<sup>33</sup> R.C. 4732.17(A).



The act permits the Board to specify that a license revocation is permanent. An individual subject to permanent revocation is forever thereafter ineligible to hold a license, and the Board is prohibited from accepting an application for reinstatement of the license or issuance of a new license.<sup>34</sup>

### **Procedure for disciplinary actions**

Disciplinary action must be taken pursuant to the notice and hearing process in the Administrative Procedure Act. However, for purposes of suspending a license prior to holding a hearing if there is an immediate threat to the public (as permitted under pre-existing law) the act permits the Board to use a telephone conference call to conduct an emergency meeting for review of the matter by a quorum of the Board, taking the vote, and memorializing the action in the minutes of the meeting.<sup>35</sup>

The act also requires the Board to adopt rules establishing a case management schedule for pre-hearing procedures by the hearing examiner or presiding Board member. The schedule must include deadlines related to the hearing process, including dates for: (1) the hearing, (2) disclosure of witnesses and exhibits, (3) disclosure of the identity of expert witnesses and the exchange of written reports, and (4) the deadline for submitting a request for the issuance of a subpoena for the hearing.<sup>36</sup>

Under the act's provisions, either party to the hearing may submit a written request to the other party for a list of witnesses and copies of documents intended to be introduced at the hearing. The request must be in writing and must be served not less than 37 days prior to the hearing, unless the hearing officer or presiding Board member grants an extension of time to make the request. Not later than 30 days before the hearing, the responding party must provide the requested list of witnesses, summary of their testimony, and copies of documents to the requesting party, unless the hearing officer or presiding Board member grants an extension. Failure to timely provide the list or copies requested may, at the discretion of the hearing officer or presiding Board member, result in exclusion from the hearing of the witnesses, testimony, or documents.

In addition to subpoenas for the production of books, records, and papers requested under the Administrative Procedure Act, either party may ask the Board to issue a subpoena for the production of other tangible items. The person subject to a subpoena for the production of books, records, papers, or other tangible items must respond to the subpoena at least 20 days prior to the date of the hearing. If a person fails

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<sup>34</sup> R.C. 4732.17(A), (C), and (D).

<sup>35</sup> R.C. 4732.17(F)(1) and 4732.171 (repealed).

<sup>36</sup> R.C. 4732.17(F)(2).



to respond to a subpoena issued by the Board, after providing reasonable notice to the person, the Board, the hearing officer, or both may proceed with enforcement of the subpoena pursuant to the Administrative Procedure Act.<sup>37</sup>

When the Board issues a notice of opportunity for a hearing on the basis of substance abuse or other impairment, the supervising member of the Board, with cause and upon consultation with the Board's executive director and the Board's legal counsel, may compel the applicant or license holder to submit to mental, cognitive, substance abuse, or medical evaluations, or a combination of these evaluations, by a person or persons selected by the Board. Notice must be given to the applicant or license holder in writing signed by the supervising member, the executive director, and the Board's legal counsel. The applicant or license holder is deemed to have given consent to submit to these evaluations and to have waived all objections to the admissibility of testimony or evaluation reports that constitute a privileged communication. The expense of the evaluations is the responsibility of the applicant or license holder who is evaluated.<sup>38</sup>

### **License restoration**

The act permits the Board to require a person seeking restoration of a license to submit to mental, substance abuse, cognitive, or physical evaluations, or a combination of these evaluations. Evaluations must be conducted by qualified individuals selected by the Board. The costs of any evaluative processes must be paid by the applicant for restoration. A person requesting restoration of a license is deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the Board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

The act expands the law that permits the Board to "require an examination" of an applicant seeking license restoration. It authorizes the Board to require the applicant to (1) take the examination selected by the Board and receive a score acceptable to the Board and (2) participate in Board processes designed to expose the applicant to the laws and rules governing the practice of psychology in Ohio, which may include passing a written or oral examination.

If a license is restored, the act permits the Board to impose restrictions and limitations on the practice of the license holder at the time it restores the license.<sup>39</sup>

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<sup>37</sup> R.C. 4732.17(F)(3) and (4).

<sup>38</sup> R.C. 4732.17(E).

<sup>39</sup> R.C. 4732.18.



## **Prohibition on unlicensed practice**

Under the act, unless exempt from licensure, no person who is not a licensed psychologist may offer or render services as a psychologist, and no person who is not a school psychologist licensed by the Board or by the State Board of Education may offer or render services as a school psychologist. A similar provision existed in former law, but it limited the prohibition to those who carry out the activities of a psychologist or school psychologist for compensation or other personal gain.<sup>40</sup>

## **Use of telepsychology**

The act requires the Board to adopt rules governing the use of telepsychology, for the purpose of (1) protecting the welfare of recipients of telepsychology services and (2) establishing requirements for the responsible use of telepsychology in the practice of psychology and school psychology, including the supervision of unlicensed persons by a licensed psychologist or school psychologist. Telepsychology is the practice of psychology or school psychology by distance communication technology, including telephone, electronic mail, Internet-based communications, and video conferencing.<sup>41</sup>

## **Colleague assistance program**

The act permits the Board to approve or establish a colleague assistance program for the purpose of affording its license holders, license applicants, and registered persons access to all of the following:

- (1) Resources concerning the prevention of distress;
- (2) Evaluation and intervention services concerning mental, emotional, substance use, and other conditions that may impair competence, objectivity, and judgment in the provision of psychological or school psychological services;
- (3) Consultation and mentoring services for practice oversight and remediation of professional skill deficits.

The Board may compel a license holder, applicant, or registered person to participate in the program in conjunction with disciplinary actions taken by the Board.

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<sup>40</sup> R.C. 4732.21.

<sup>41</sup> R.C. 4732.01(J) and 4732.33.



If a program is approved or established, the Board must adopt rules specifying the circumstances under which self-referred participants may receive confidential services from the program.<sup>42</sup>

(Due to an apparent drafting error, the act authorizes the Psychology Board to offer the colleague assistance program not only to its own licensees and applicants, but also to individuals who are subject to disciplinary action by the State Medical Board (under R.C. 4731.22). The correct additional reference presumably should have been to individuals registered with the Psychology Board (under R.C. 4732.22) as exempt from licensure because they are under the supervision of a licensed psychologist or school psychologist.)

## **Psychology definitions**

### **Practice of psychology**

The act specifies that the practice of psychology does not include teaching or research, even when dealing with psychological subject matter, as long as it does not otherwise involve the professional practice of psychology in which an "individual's," rather than a "patient or client's," welfare is directly affected by the application of psychological procedures.<sup>43</sup>

### **Practice of school psychology**

The act makes the following changes to the definition of "practice of school psychology":

--Includes the assessment of behavior directly related to learning problems in the issues assessed as part of the evaluation, diagnosis, or test interpretation that is currently offered as a service under the practice of school psychology, and removes a provision specifying that the issues assessed occur in an educational setting;

--Specifies that intervention services that include counseling services, rather than just counseling services, are offered under the practice of school psychology, and explains that these services address emotional and behavioral aspects of educationally related learning problems, as well as all other aspects of educationally related learning problems;

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<sup>42</sup> R.C. 4732.173.

<sup>43</sup> R.C. 4732.01(B).



--Includes psychological consultation as a service offered under the practice of school psychology.<sup>44</sup>

## **Terms**

The act updates the law's terminology with respect to school psychologists regulated by the State Board of Education. It replaces the term "certified school psychologist" with "school psychologist licensed by the State Board of Education," and defines that new term to mean an individual holding a current, valid school psychologist license issued by the State Board of Education. This change reflects the fact that, since the 1990s, the State Board of Education has issued licenses, rather than certificates, to the school psychologists it regulates.<sup>45</sup>

## **Fee for verification of license status**

The act requires the Psychology Board to charge a fee of \$40 to a license holder for the written verification of licensure status, including verification of the date of licensure, the presence or absence of a history of disciplinary action, and the expiration date of the license.<sup>46</sup>

## **Structure and responsibilities of the Board**

With respect to the structure and responsibilities of the Board, the act does all of the following:

--Permits the Ohio Association of Black Psychologists to submit annually a list of candidates for the State Board of Psychology that the Governor may use to make appointments to the Board. Law unchanged by the act already permitted lists to be submitted annually by the Ohio Psychological Association and Ohio School Psychologists Association.<sup>47</sup>

--Removes a provision requiring that the Board member serving as the Board's secretary be compensated for necessary expenses incurred in the performance of official duties;<sup>48</sup>

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<sup>44</sup> R.C. 4732.01(E).

<sup>45</sup> R.C. 4732.01, 4732.02, 4732.11, 4732.12, 4732.14, 4732.141, 4732.171, 4732.21, 4732.22, and 4732.31.

<sup>46</sup> R.C. 4732.151.

<sup>47</sup> R.C. 4732.02.

<sup>48</sup> R.C. 4732.03.

--Prohibits the Board from conducting its business by teleconference except for the purpose of suspending a license prior to holding a hearing if there is an immediate threat to the public;<sup>49</sup>

--Requires the Board to employ an executive director, investigators, and administrative assistants as necessary to administer and enforce the laws governing the practice of psychology. Under former law, the Board was *permitted* to employ assistant and clerical help, but was not specifically required to employ an executive director or investigators.<sup>50</sup>

--Removes a provision that required applicants' written examination papers to be included in the records kept by the Board.<sup>51</sup>

## Technical changes

The act also makes changes throughout the psychology licensing law to remove obsolete and out-of-date provisions<sup>52</sup> and makes technical corrections.<sup>53</sup>

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## HISTORY

| ACTION   | DATE     |
|--|----------|
| Introduced                                     | 02-26-13 |
| Reported, H. Health & Aging                    | 03-13-13 |
| Passed House (96-1)                            | 04-17-13 |
| Reported, S. Medicaid, Health & Human Services | 12-04-13 |
| Passed Senate (33-0)                           | 12-04-13 |
| House concurred in Senate amendments (90-0)    | 12-04-13 |

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<sup>49</sup> R.C. 4732.06.

<sup>50</sup> R.C. 4732.06.

<sup>51</sup> R.C. 4732.07.

<sup>52</sup> R.C. 4732.02, 4732.10, 4732.14, 4732.141, 4732.15 (repealed), and 4732.21; conforming changes in R.C. 102.02, 102.022, 102.03, 2152.54, 2919.271, 2945.37, and 5122.01.

<sup>53</sup> R.C. 4732.172.

