



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **17-078**

AN ORDER to repeal Psy 5.01 (18) and (33) (a) to (e) and 5.02; to amend Psy 5.01 (2), (5), (8), (24), (25), (28), (29), (30) (c), (33) (intro.) and (34); to repeal and recreate Psy 5.01 (17) and (32); and to create Psy 5.01 (2m) and (12m), relating to unprofessional conduct.

Submitted by **PSYCHOLOGY EXAMINING BOARD**

10-31-2017 RECEIVED BY LEGISLATIVE COUNCIL.

11-14-2017 REPORT SENT TO AGENCY.

MSK:SM



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Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

2. Form, Style and Placement in Administrative Code

a. In the introductory clause for the proposed rule, the listed treatment of s. Psy 5.01 (17) and (32) should be shown as “repeal and recreate” instead of “repeal and replace”.

b. The treatment of s. Psy 5.01 (18) that is shown between SECTIONS 6 and 7 of the proposed rule should be in its own numbered SECTION. All subsequent SECTIONS should be renumbered accordingly.

c. In SECTION 13 of the proposed rule, the treatment clause should be revised to the following: “Psy 5.01 (33) (intro.) is renumbered Psy 5.01 (33) and amended to read:”. The treatment listing in the introductory clause for the proposed rule should also be updated to reflect this treatment as “renumber and amend”.

5. Clarity, Grammar, Punctuation and Use of Plain Language

The text in s. Psy 5.01 (34) should be revised for clarity. Perhaps the first “or” should be changed to “of” to make the intended language read “violating any provision of an order”. Or is a “provision” of any board intended to also refer to “rules” of any board, as only state rules are referenced elsewhere? If so, this should be specified. Also, the word “which” should be revised to “that”.



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-0483/1
MED:amn

2017 BILL

1 **AN ACT** *to repeal* 455.01 (7), 455.02 (2m) (h), 455.02 (3m) (title), 455.045 (2),
2 455.065 (3), 455.07, 455.08 and 455.10; *to renumber and amend* 455.02 (1m)
3 and 455.02 (3m); *to amend* 15.405 (10m), 51.30 (1) (b), 440.08 (2) (a) (intro.),
4 440.88 (3m), 455.01 (3m), 455.02 (1m) (title), 455.02 (2m) (d), 455.02 (2m) (m),
5 455.03, 455.04 (1) (intro.), 455.04 (1) (b), 455.04 (1) (c), 455.04 (1) (e), 455.04 (3),
6 455.04 (5), 455.045 (1), 455.065 (1), 455.065 (4), 455.065 (5), 455.09 (1) (intro.),
7 455.09 (1) (b), 455.09 (1) (g), 455.09 (3) and 905.04 (1) (e); *to repeal and*
8 *recreate* 455.01 (5), 455.01 (6), 455.02 (2m) (f), 455.02 (2m) (k), 455.04 (1) (d),
9 455.04 (4), 455.045 (3), 455.06 and 455.09 (title); and *to create* 455.02 (2m) (o)
10 to (r), 455.025, 455.04 (1) (dm), 455.04 (2), 455.065 (6) and (7), 455.09 (1) (i),
11 455.09 (1) (j), 455.09 (4) and 455.095 of the statutes; **relating to:** the practice
12 of psychology, extending the time limit for emergency rule procedures,

BILL

1 providing an exemption from emergency rule procedures, granting
2 rule-making authority, and requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, no person may engage in the practice of psychology without being licensed as a psychologist by the Psychology Examining Board. This bill makes various revisions to the laws governing the board and the practice of psychology. Significant changes are described as follows:

Psychology Examining Board; composition

Under current law, the board is required to be composed of six members, including four licensed psychologists and two public members. Current law requires that each psychologist member represent a different specialty area within the field of psychology.

The bill eliminates the requirement that each psychologist member represent a different specialty area within the field of psychology and instead simply requires that the governor, to the extent possible, nominate psychologists to the board who represent different specialty areas within the field of psychology.

Private practice of school psychologist

Under current law, no person may engage in the private practice of school psychology without a private practice school psychologist license.

The bill allows private practice school psychologists who are licensed under current law to continue to renew their licenses and engage in the private practice of school psychology. However, the bill otherwise discontinues the licensure of private practice school psychologists. The bill continues to allow the practice of school psychology in school settings without a license issued by the board by individuals credentialed by the Department of Public Instruction.

Psychology; scope of practice and licensure requirements

1. The bill revises the definition of the “practice of psychology” for purposes of the requirement that an individual obtain a psychologist license in order to engage in that practice. The bill also revises various provisions that exempt certain types of individuals from the licensure requirement and adds a number of additional exemptions.

2. The bill revises the licensure requirements that must be satisfied in order to be granted a psychologist license by the board. The changes include eliminating a prohibition on the board promulgating rules to require an internship.

3. The bill eliminates the ability of the board to deny a license based on an applicant’s arrest record.

Interim license

The bill requires the board to issue an interim psychologist license to an applicant who satisfies all of the requirements for a psychologist license, other than the supervised experience requirement. An interim license is valid for two years or

BILL

until the individual obtains a permanent license, subject to a hardship exemption prescribed by the board by rule that could allow renewals beyond two years.

Continuing education

The bill makes various changes concerning continuing education for psychologists, including requiring licensees to maintain records of compliance with continuing education requirements for at least six years.

Various other changes

The bill makes various other changes to the laws governing the practice of psychology, including:

1. Allowing the board to require a licensee or applicant to submit to a psychological examination when there is reasonable cause to believe that the individual is physically or mentally incapable of engaging in the practice of psychology with reasonable skill such that he or she may endanger the safety of patients or clients.

2. Various revisions to the laws governing professional discipline of psychologists, including specifically allowing the board to take disciplinary action against a licensee who practices outside the scope of his or her training, experience, or education without appropriate supervision.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.405 (10m) of the statutes is amended to read:

2 15.405 (10m) PSYCHOLOGY EXAMINING BOARD. There is created in the
3 department of safety and professional services a psychology examining board
4 consisting of 6 members appointed for staggered 4-year terms. Four of the members
5 shall be psychologists licensed in this state. ~~Each of the psychologist members shall~~
6 ~~represent a different specialty area within the field of psychology.~~ Two members
7 shall be public members. The governor shall, to the extent possible, nominate
8 psychologists to the board who represent different specialty areas within the field of
9 psychology.

10 **SECTION 2.** 51.30 (1) (b) of the statutes is amended to read:

BILL

1 51.30 (1) (b) “Treatment records” include the registration and all other records
2 that are created in the course of providing services to individuals for mental illness,
3 developmental disabilities, alcoholism, or drug dependence and that are maintained
4 by the department; by county departments under s. 51.42 or 51.437 and their staffs;
5 by treatment facilities; or by psychologists licensed under s. 455.04 (1) or (2) or
6 licensed mental health professionals who are not affiliated with a county department
7 or treatment facility. Treatment records do not include notes or records maintained
8 for personal use by an individual providing treatment services for the department,
9 a county department under s. 51.42 or 51.437, or a treatment facility, if the notes or
10 records are not available to others.

11 **SECTION 3.** 440.08 (2) (a) (intro.) of the statutes is amended to read:

12 440.08 (2) (a) (intro.) Except as provided in par. (b) and in ss. 440.51, 442.04,
13 444.03, 444.11, 447.04 (2) (c) 2., 449.17 (1m) (d), 449.18 (2) (d), 455.06 (1) (b), 463.10,
14 463.12, and 463.25 and subch. II of ch. 448, the renewal dates for credentials are as
15 follows:

16 **SECTION 4.** 440.88 (3m) of the statutes is amended to read:

17 440.88 (3m) EXCEPTION. This section does not apply to a physician, as defined
18 in s. 448.01 (5), a clinical social worker, as defined in s. 457.01 (1r), or a licensed
19 psychologist, ~~as defined in s. 455.01 (4)~~ licensed under s. 455.04 (1) or (2), who
20 practices as a substance abuse clinical supervisor or provides substance abuse
21 counseling, treatment, or prevention services within the scope of his or her licensure.

22 **SECTION 5.** 455.01 (3m) of the statutes is amended to read:

23 455.01 (3m) “Fee” “Fee,” when used other than in reference to a fee for a
24 credential, means direct or indirect payment or compensation, monetary or

BILL

1 otherwise, including the expectation of payment or compensation whether or not
2 actually received.

3 **SECTION 6.** 455.01 (5) of the statutes is repealed and recreated to read:

4 455.01 **(5)** (a) "Practice of psychology" means the observation, description,
5 evaluation, interpretation, prediction, or modification of human behavior by the
6 application of psychological principles, methods, or procedures for any of the
7 following purposes, in exchange for a fee:

8 1. Preventing, eliminating, evaluating, assessing, or predicting symptomatic,
9 maladaptive, or undesired behavior and promoting adaptive health maintaining
10 behavior or psychological functioning.

11 2. Evaluating, assessing, or facilitating the enhancement of individual, group,
12 or organizational effectiveness.

13 3. Assisting in legal decision making.

14 (b) "Practice of psychology" includes all of the following if done in exchange for
15 a fee:

16 1. Psychological testing and the evaluation or assessment of a person's
17 characteristics, including intelligence; personality; cognitive, physical, or emotional
18 abilities; skills; interests; aptitudes; or neuropsychological functioning.

19 2. Counseling, consultation, psychoanalysis, psychotherapy, hypnosis,
20 biofeedback, behavior therapy, and applied behavior analysis.

21 3. The diagnosis, treatment, or management of mental and emotional disorders
22 or disabilities, substance use disorders, disorders of habit or conduct, and the
23 psychological aspects of physical illnesses, accidents, injuries, or disabilities.

24 4. Psychoeducational evaluation, therapy, or remediation.

BILL**SECTION 6**

1 5. Consultation with other psychologists, physicians, or other health care
2 professionals and with a patient regarding all available treatment options, including
3 medication, with respect to the provision of care for a specific patient or client.

4 6. The provision of direct services to individuals or groups for the purposes of
5 enhancing individual or organizational effectiveness, using psychological principles,
6 methods, or procedures.

7 7. The supervision of anything specified in subds. 1. to 6.

8 **SECTION 7.** 455.01 (6) of the statutes is repealed and recreated to read:

9 455.01 (6) "Psychotherapy" means the diagnosis and treatment of mental,
10 emotional, or behavioral disorders, conditions, or addictions through the application
11 of methods derived from established psychological or systemic principles, including
12 for the purpose of assisting individuals with modifying their behaviors, cognitions,
13 emotions, or personality characteristics, or for the purpose of understanding
14 unconscious processes or intrapersonal, interpersonal, or psychosocial dynamics.

15 **SECTION 8.** 455.01 (7) of the statutes is repealed.

16 **SECTION 9.** 455.02 (1m) (title) of the statutes is amended to read:

17 455.02 (1m) (title) ~~LICENSE REQUIRED TO PRACTICE.~~

18 **SECTION 10.** 455.02 (1m) of the statutes is renumbered 455.02 (1m) (a) and
19 amended to read:

20 455.02 (1m) (a) Except as provided in ~~s. sub. (2m) and ss. 257.03 and 455.03,~~
21 no person may engage in the practice of psychology ~~or the private practice of school~~
22 ~~psychology,~~ or attempt to do so or make a representation as authorized to do so,
23 without a license issued by the examining board.

24 **SECTION 11.** 455.02 (2m) (d) of the statutes is amended to read:

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1 455.02 (2m) (d) A person employed in a position as a psychologist or
2 psychological assistant by ~~an accredited~~ a recognized college, junior college, or
3 university or other academic or research institution or by a recognized research
4 laboratory, if the person is performing activities that are a part of the duties for which
5 he or she is employed, is performing those activities solely within the confines of or
6 under the jurisdictions of the institution in which he or she is employed and does not
7 render or offer to render psychological services to the public for a fee over and above
8 the salary that he or she receives for the performance of the official duties with the
9 institution with which he or she is employed. An individual acting under this
10 paragraph may, ~~without obtaining a license under s. 455.04 (1) or (4), disseminate~~
11 ~~research findings and scientific information to others, such as accredited academic~~
12 ~~institutions or governmental agencies, or may offer lecture services for a fee. teach~~
13 the practice of psychology, conduct psychological research, present lectures on the
14 practice of psychology, perform any consultation required by his or her academic or
15 research functions, or provide expert testimony in court related to his or her field of
16 expertise. A person employed in a position under this paragraph may utilize or
17 represent himself or herself by the academic or research title conferred upon him or
18 her by the administration of the laboratory, school, college, or university or use the
19 title “psychology professor” or “academic psychologist.”

20 **SECTION 12.** 455.02 (2m) (f) of the statutes is repealed and recreated to read:

21 455.02 (2m) (f) A person providing psychological services as part of a
22 psychology training program, if his or her activities and services constitute a part of
23 the supervised course of study and are performed under the supervision of a
24 psychologist licensed under this chapter and the person does not provide or offer to
25 provide psychological services to the public for a fee over and above any salary that

BILL**SECTION 12**

1 he or she may receive for the performance of the official duties with the employing
2 agency or organization. A person providing services under this paragraph may use
3 the title “psychology student,” “psychology intern,” or “psychology resident”.

4 **SECTION 13.** 455.02 (2m) (h) of the statutes is repealed.

5 **SECTION 14.** 455.02 (2m) (k) of the statutes is repealed and recreated to read:

6 455.02 **(2m)** (k) A person not trained as a psychologist whose activities are
7 limited to educational or vocational counseling or testing that is performed in a
8 human resources, personnel, or educational setting.

9 **SECTION 15.** 455.02 (2m) (m) of the statutes is amended to read:

10 455.02 **(2m)** (m) A person providing psychological services as an employee of
11 a federal, ~~state or local~~ governmental agency, if the person is providing the
12 psychological services as a part of the duties for which he or she is employed, is
13 providing the psychological services solely within the confines of or under the
14 jurisdiction of the agency by which he or she is employed, and does not provide or offer
15 to provide psychological services to the public for a fee over and above the salary that
16 he or she receives for the performance of the official duties with the agency by which
17 he or she is employed.

18 **SECTION 16.** 455.02 (2m) (o) to (r) of the statutes are created to read:

19 455.02 **(2m)** (o) A person providing psychological services as an employee of a
20 state or local governmental agency, if the person is providing the psychological
21 services as a part of the duties for which he or she is employed, is providing the
22 psychological services solely within the confines of or under the jurisdiction of the
23 agency by which he or she is employed, does not provide or offer to provide
24 psychological services to the public for a fee over and above the salary that he or she
25 receives for the performance of the official duties with the agency by which he or she

BILL

1 is employed, and has received a master's degree in psychology from an institution
2 accredited by an accrediting organization recognized by the U.S. secretary of
3 education. A person providing services under this paragraph may use the title
4 "psychological associate."

5 (p) A person providing psychological services under the supervision of a
6 psychologist licensed under this chapter as part of a formal psychology fellowship
7 program that meets the program standards of the Association of Psychology
8 Postdoctoral and Internship Centers or its successor organization. A person
9 providing services under this paragraph may use the title "psychology fellow."

10 (q) A person whose activities are limited to testifying in a court in this state
11 regarding services rendered in another state.

12 (r) A person engaging in the private practice of school psychology who holds a
13 valid private practice school psychologist license issued under s. 455.04 (4), 2015
14 stats. A person acting under this paragraph may use the title "private practice school
15 psychologist."

16 **SECTION 17.** 455.02 (3m) (title) of the statutes is repealed.

17 **SECTION 18.** 455.02 (3m) of the statutes is renumbered 455.02 (1m) (b) and
18 amended to read:

19 455.02 **(1m)** (b) Except as provided in s. sub. (2m) and ss. 257.03 and 455.03,
20 only an individual licensed under s. 455.04 (1) or (2) may use the title "psychologist"
21 or any similar title or state or imply that he or she is licensed to practice psychology,
22 ~~and only an individual licensed under s. 455.04 (4) may use the title "private practice~~
23 ~~school psychologist" or any similar title or state or imply that he or she is licensed~~
24 ~~to engage in the private practice of school psychology.~~ Except as provided in s. sub.
25 (2m) and ss. 257.03 and 455.03, only an individual licensed under s. 455.04 (1) ~~or (4)~~

BILL**SECTION 18**

1 or (2) may represent himself or herself to the public by any description of services
2 incorporating the word “psychological” or “psychology”.

3 **SECTION 19.** 455.025 of the statutes is created to read:

4 **455.025 Practice of medicine and surgery.** Nothing in this chapter shall
5 be construed to authorize a psychologist to engage in the practice of medicine and
6 surgery.

7 **SECTION 20.** 455.03 of the statutes is amended to read:

8 **455.03 Temporary practice.** A psychologist who is licensed or certified by
9 a similar examining board of another state or territory of the United States ~~or of a~~
10 ~~foreign country or a Canadian province whose standards, in the opinion of the~~
11 ~~examining board, are equivalent to or higher than the requirements for licensure as~~
12 ~~a psychologist in s. 455.04 (1) may offer~~ provide psychological services as a
13 ~~psychologist in this state for on~~ not more than 60 ~~working~~ days in any year without
14 holding a license issued under s. 455.04 (1). The psychologist shall report to the
15 examining board the nature and extent of his or her practice in this state if it exceeds
16 20 ~~working~~ days within a year. A psychologist provides psychological services in this
17 state for purposes of this section whenever the patient or client is located in this
18 state, regardless of whether the psychologist is temporarily located in this state or
19 is providing services by electronic or telephonic means from the state or province
20 where the psychologist is licensed. In this section, “day” means any part of a day
21 during which psychological services are rendered.

22 **SECTION 21.** 455.04 (1) (intro.) of the statutes is amended to read:

23 455.04 (1) (intro.) The ~~department~~ examining board shall ~~issue~~ grant a
24 psychologist license to an individual who submits an application for the license to the
25 ~~department on a form provided by the department, pays the fee specified in s. 440.05~~

BILL

1 ~~(1) or, if sub. (3) applies, the fee specified in s. 440.05 (2) determined by the~~
2 ~~department under s. 440.03 (9), and is found by the examining board to meet satisfies~~
3 all of the following requirements:

4 **SECTION 22.** 455.04 (1) (b) of the statutes is amended to read:

5 455.04 (1) (b) Subject to ss. 111.321, 111.322, and 111.335, not have an arrest
6 or a conviction record.

7 **SECTION 23.** 455.04 (1) (c) of the statutes is amended to read:

8 455.04 (1) (c) Hold a doctoral degree in psychology from a college or university
9 accredited by a regional accrediting agency approved by the state board of education
10 in the state in which the college or university is located program accredited by the
11 American Psychological Association or the Canadian Psychological Association, or
12 have had other academic training or specialized experience, which in the opinion of
13 that the examining board is determines to be substantially equivalent thereto based
14 upon standards established by rule. The examining board may require examinations
15 to determine the equivalence of such training and experience and may also require
16 examinations for individuals holding doctoral degrees in psychology from
17 non-American universities.

18 **SECTION 24.** 455.04 (1) (d) of the statutes is repealed and recreated to read:

19 455.04 (1) (d) Complete any predoctoral supervised experience requirements
20 established by the examining board by rule.

21 **SECTION 25.** 455.04 (1) (dm) of the statutes is created to read:

22 455.04 (1) (dm) Complete any postdoctoral supervised experience
23 requirements established by the examining board by rule.

24 **SECTION 26.** 455.04 (1) (e) of the statutes is amended to read:

BILL**SECTION 26**

1 455.04 (1) (e) Pass the examination under s. 455.045 (1) (a). ~~This paragraph~~
2 ~~does not apply to an applicant who is licensed as a psychologist in another state if~~
3 ~~the applicant submits proof of completion of continuing educational programs or~~
4 ~~courses approved under s. 455.065 (4) for the minimum number of hours required in~~
5 ~~the rules promulgated under s. 455.065 (3).~~

6 **SECTION 27.** 455.04 (2) of the statutes is created to read:

7 455.04 (2) The examining board shall grant an interim psychologist license to
8 an applicant who satisfies the requirements for a license under sub. (1), other than
9 the requirement under sub. (1) (d). An individual licensed under this subsection may
10 provide psychological services only under the supervision of qualified supervisors,
11 as determined by the examining board.

12 **SECTION 28.** 455.04 (3) of the statutes is amended to read:

13 455.04 (3) The examining board may waive the requirements of sub. (1) (c) and
14 (d) ~~to (e) if a candidate holds a diploma of the American board of examiners in~~
15 ~~professional psychology, or an applicant holds a certificate or license of an examining~~
16 ~~board of some other state or territory or foreign country or a Canadian province, if~~
17 the standards of such other examining board are deemed by the members of this
18 examining board to be equivalent to the standards of this state and like reciprocity
19 is extended to holders of licenses issued by this state.

20 **SECTION 29.** 455.04 (4) of the statutes is repealed and recreated to read:

21 455.04 (4) A person who, on the day before the effective date of this subsection
22 [LRB inserts date], held a valid private practice school psychologist license issued
23 under s. 455.04 (4), 2015 stats., may continue to renew that license as provided in s.
24 455.06. The examining board may not grant any initial private practice school

BILL

1 psychologist license based on an application received on or after the effective date of
2 this subsection [LRB inserts date].

3 **SECTION 30.** 455.04 (5) of the statutes is amended to read:

4 455.04 (5) Applicants for licensure under ~~subs. (1) and (4)~~ this section may be
5 required to appear before the examining board in person prior to licensure to allow
6 the examining board to make such inquiry of them as to qualifications and other
7 matters as it considers proper.

8 **SECTION 31.** 455.045 (1) of the statutes is amended to read:

9 455.045 (1) ~~The examining board shall administer~~ In order to qualify for a
10 psychologist license under s. 455.04 (1) or (2), an applicant must have passed all of
11 the following examinations for psychologist licensure at least semiannually at times
12 and places determined by the examining board:

13 (a) A written examination on the professional practice of psychology.

14 (b) A written examination ~~in the elements of practice essential to the public~~
15 ~~health, safety or welfare~~ on state law related to the practice of psychology.

16 **SECTION 32.** 455.045 (2) of the statutes is repealed.

17 **SECTION 33.** 455.045 (3) of the statutes is repealed and recreated to read:

18 455.045 (3) The examining board shall set passing scores for examinations
19 under sub. (1) (a) or (b). The examining board may adopt passing scores
20 recommended by test developers.

21 **SECTION 34.** 455.06 of the statutes is repealed and recreated to read:

22 **455.06 Renewals.** (1) (a) Except as provided in par. (b), the renewal dates for
23 licenses issued under this chapter or under s. 455.04 (4), 2015 stats., are specified
24 under s. 440.08 (2) (a), and the renewal fee for such licenses is determined by the
25 department under s. 440.03 (9) (a).

BILL**SECTION 34**

1 (b) A license issued under s. 455.04 (2) is valid for 2 years or until the individual
2 obtains a license under s. 455.04 (1) and may not be renewed, except that the
3 examining board may promulgate rules specifying circumstances in which the
4 examining board, in cases of hardship, may allow an individual to renew a license
5 issued under s. 455.04 (2). Notwithstanding sub. (2), an individual holding a license
6 issued under s. 455.04 (2) is not required to complete continuing education.

7 (2) An applicant for renewal of a license issued under this chapter or under s.
8 455.04 (4), 2015 stats., shall include with his or her application proof in the form
9 specified by the examining board that he or she has completed the hours of
10 continuing education required under s. 455.065.

11 **SECTION 35.** 455.065 (1) of the statutes is amended to read:

12 455.065 (1) Promulgate rules establishing the minimum number of hours of
13 continuing education, the topic areas that the continuing education must cover, the
14 criteria for the approval of continuing education programs and courses required for
15 renewal of a license, and the criteria for the approval of the sponsors and cosponsors
16 of those continuing education programs and courses. The examining board may
17 establish criteria for the substitution of hours of professional activities to meet
18 continuing education requirements. A licensee shall retain for a minimum period of
19 6 years and shall make available to the examining board or its agent upon request
20 proof that the licensee completed the required continuing education.

21 **SECTION 36.** 455.065 (3) of the statutes is repealed.

22 **SECTION 37.** 455.065 (4) of the statutes is amended to read:

23 455.065 (4) Approve continuing education programs and courses in accordance
24 with the criteria established under subs. sub. (1) and ~~(3)~~.

25 **SECTION 38.** 455.065 (5) of the statutes is amended to read:

BILL

1 455.065 (5) Promulgate rules establishing the criteria for the substitution of
2 uncompensated hours of professional assistance volunteered to the department of
3 health services for some or all hours of continuing education credits required under
4 ~~subs. (1) and (3)~~ sub. (1). The eligible substitution hours shall involve professional
5 evaluation of community programs for the certification and recertification of
6 community mental health programs, as defined in s. 51.01 (3n), by the department
7 of health services.

8 **SECTION 39.** 455.065 (6) and (7) of the statutes are created to read:

9 455.065 (6) Grant a postponement of or waiver from the continuing education
10 requirements under this section based upon the grounds of prolonged illness or
11 disability or on other grounds constituting extreme hardship. The examining board
12 shall consider each application individually on its merits, and the examining board
13 may grant a postponement, partial waiver, or total waiver of the requirement as the
14 examining board deems appropriate.

15 (7) Grant an exemption from the continuing education requirements under
16 this section to a psychologist who certifies to the examining board that he or she has
17 permanently retired from the practice of psychology. A psychologist who has been
18 granted an exemption under this subsection may not return to active practice
19 without submitting evidence satisfactory to the examining board of having
20 completed the required continuing education credits within the 2-year period prior
21 to the return to the practice of psychology.

22 **SECTION 40.** 455.07 of the statutes is repealed.

23 **SECTION 41.** 455.08 of the statutes is repealed.

24 **SECTION 42.** 455.09 (title) of the statutes is repealed and recreated to read:

25 **455.09 (title) Disciplinary proceedings and actions.**

BILL**SECTION 43**

1 **SECTION 43.** 455.09 (1) (intro.) of the statutes is amended to read:

2 455.09 (1) (intro.) Subject to the rules promulgated under s. 440.03 (1), the
3 examining board may deny an application for a license, or may ~~by order~~ suspend for
4 ~~a period not exceeding one year, limit, or~~ revoke ~~or impose probationary conditions~~
5 ~~upon~~ a license or reprimand a licensee if the applicant or licensee:

6 **SECTION 44.** 455.09 (1) (b) of the statutes is amended to read:

7 455.09 (1) (b) Subject to ss. 111.321, 111.322, and 111.34, engaged engages in
8 the practice of psychology or the private practice of school psychology while his or her
9 ability to practice was is impaired by alcohol or other drugs or while otherwise having
10 a mental or physical impairment. In this paragraph, "mental or physical
11 impairment" means a mental or physical impairment that would limit or eliminate
12 a licensee's ability to engage in the practice of psychology at the minimum level
13 required to competently discharge his or her tasks or duties and to protect the public
14 interest while so doing.

15 **SECTION 45.** 455.09 (1) (g) of the statutes is amended to read:

16 455.09 (1) (g) Violates this chapter or any rule of ~~professional conduct~~
17 promulgated under this chapter.

18 **SECTION 46.** 455.09 (1) (i) of the statutes is created to read:

19 455.09 (1) (i) Refuses to submit to an examination under s. 455.095, or is found
20 to be physically or mentally incapable of engaging in the practice of psychology under
21 s. 455.095.

22 **SECTION 47.** 455.09 (1) (j) of the statutes is created to read:

23 455.09 (1) (j) Practices outside the scope of his or her training, experience, or
24 education without appropriate supervision.

25 **SECTION 48.** 455.09 (3) of the statutes is amended to read:

BILL

1 455.09 (3) A revoked license may not be renewed. ~~One year from the date of~~
2 ~~revocation~~ An individual may, no sooner than one year after the date of revocation,
3 apply for reinstatement of a license under this chapter, ~~application may be made for~~
4 ~~reinstatement.~~ The examining board may accept or reject an application for
5 reinstatement. If reinstatement is granted under this subsection, the licensee shall
6 pay a reinstatement fee in an amount equal to the renewal fee. This subsection does
7 not apply to a license that is revoked under s. 440.12.

8 **SECTION 49.** 455.09 (4) of the statutes is created to read:

9 455.09 (4) The examining board may conduct an audit on any licensee under
10 investigation by the examining board for compliance with continuing education
11 requirements under s. 455.065.

12 **SECTION 50.** 455.095 of the statutes is created to read:

13 **455.095 Determination of mental or physical impairment.** (1) When
14 there is reasonable cause to believe that an individual licensed under this chapter
15 or applicant for a license under this chapter is physically or mentally incapable of
16 engaging in the practice of psychology with reasonable skill such that the applicant
17 or licensee may endanger the safety of patients or clients, the examining board may
18 require the licensee or applicant in question to submit to a psychological examination
19 by a psychologist designated by the examining board to determine psychological
20 functioning to practice or a physical examination by a physician designated by the
21 examining board to determine physical functioning to practice.

22 (2) The examining board shall consider the findings and conclusions of an
23 examination under sub. (1) and any other evidence or material submitted to the
24 examining board by the licensee or applicant in question or any other individual and
25 shall determine if the licensee or applicant is physically or mentally incapable of

BILL**SECTION 50**

1 engaging in the practice of psychology with reasonable skill such that the applicant
2 or licensee may endanger the safety of patients or clients.

3 **SECTION 51.** 455.10 of the statutes is repealed.

4 **SECTION 52.** 905.04 (1) (e) of the statutes is amended to read:

5 905.04 (1) (e) "Psychologist" means a licensed psychologist, ~~as that term is~~
6 ~~defined in s. 455.01 (4) licensed under ch. 455,~~ or a person reasonably believed by the
7 patient to be a psychologist.

8 **SECTION 53. Nonstatutory provisions.**

9 (1) EMERGENCY RULE AUTHORITY. Using the procedure under section 227.24 of
10 the statutes, the psychology examining board may promulgate rules under chapter
11 455 of the statutes that are necessary to implement the changes in this act.
12 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the board is not
13 required to provide evidence that promulgating a rule under this subsection as an
14 emergency rule is necessary for the preservation of the public peace, health, safety,
15 or welfare and is not required to provide a finding of emergency for a rule
16 promulgated under this subsection. Notwithstanding section 227.24 (1) (c) and (2)
17 of the statutes, the effective period of a rule promulgated under this subsection is for
18 2 years after its promulgation, or until permanent rules take effect, whichever is
19 sooner, and the effective period may not be further extended under section 227.24 (2)
20 of the statutes.

21 **SECTION 54. Effective dates.** This act takes effect on the first day of the 3rd
22 month beginning after publication, except as follows:

23 (1) SECTION 53 (1) of this act takes effect on the day after publication.

24

(END)