



PSYCHOLOGY EXAMINING BOARD
Room 121A, 1400 East Washington Avenue, Madison, WI
Contact: Dan Williams (608) 266-2112
June 8, 2018

Notice: The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions and deliberations of the Board.

AGENDA

9:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-3)**
- B. Approval of Meeting Minutes of May 8, 2018 (4-8)**
- C. Administrative Matters– Discussion and Consideration**
 - 1. Staff and Administrative Updates
 - 2. Board Members – Term Expiration Date
 - a. Rebecca Anderson – 7/1/2018
 - b. Marcus Desmonde – 7/1/2021 (*reappointed, not yet confirmed*)
 - c. Christopher Gultch – 7/1/2018
 - d. Daniel Schroeder – 7/1/2019 (*reappointed, not yet confirmed*)
 - e. Peter Sorce – 7/1/2020
 - f. David Thompson – 7/1/2022 (*reappointed, not yet confirmed*)
- D. Legislation and Administrative Rule Matters – Discussion and Consideration (9-33)**
 - 1. Adopt CR 17-078 Relating to Unprofessional Conduct
 - 2. Psychology Practice Act
 - 3. Update on Pending Legislation and Pending and Possible Rulemaking Projects
- E. Deliberation on Items Added After Preparation of Agenda**
 - 1. Introductions, Announcements and Recognition
 - 2. Election of Board Officers
 - 3. Appointment of Board Liaisons
 - 4. Administrative Matters
 - 5. Education and Examination Matters
 - 6. Credentialing Matters
 - 7. Practice Matters
 - 8. Legislation/Administrative Rule Matters
 - 9. Liaison Report(s)

10. Informational Items
11. Disciplinary Matters
12. Presentations of Petitions for Summary Suspension
13. Petitions for Designation of Hearing Examiner
14. Presentation of Proposed Stipulations, Final Decisions and Orders
15. Presentation of Proposed Final Decision and Orders
16. Presentation of Interim Orders
17. Petitions for Re-Hearing
18. Petitions for Assessments
19. Petitions to Vacate Orders
20. Requests for Disciplinary Proceeding Presentations
21. Motions
22. Petitions
23. Appearances from Requests Received or Renewed
24. Speaking Engagement(s), Travel, or Public Relation Request(s)

F. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

G. Review of Administrative Warning (WARN00000707/DLSC Case Number 16 PSY 028) (34-46)

H. Consulting with Legal Counsel

I. Deliberation on Items Received After Preparation of the Agenda

1. Education and Examination Matters
2. Credentialing Matters
3. Disciplinary Matters
4. Monitoring Matters
5. Professional Assistance Procedure (PAP) Matters
6. Petitions for Summary Suspensions
7. Petitions for Designation of Hearing Examiner
8. Proposed Stipulations, Final Decisions and Order
9. Administrative Warnings
10. Review of Administrative Warnings
11. Proposed Final Decisions and Orders
12. Matters Related to Costs/ Orders Fixing Costs
13. Case Closings
14. Proposed Interim Orders
15. Petitions for Assessments and Evaluations
16. Petitions to Vacate Orders
17. Remedial Education Cases
18. Motions

- 19. Petitions for Re-Hearings
- 20. Appearances from Requests Received or Renewed

RECONVENE INTO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

- J.** Vote on Items Considered or Deliberated on in Closed Session, If Voting is Appropriate
- K.** Open Session Items Noticed Above Not Completed in the Initial Open Session

ADJOURNMENT

NEXT SCHEDULED MEETING: AUGUST 21, 2018

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 1400 East Washington Avenue, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

**PSYCHOLOGY EXAMINING BOARD
TELECONFERENCE/VIRTUAL MEETING MINUTES
May 8, 2018**

PRESENT: Rebecca Anderson, Ph.D., Marcus Desmonde, Ph.D., Christopher Gultch (*arrived at 9:52 a.m.*) Daniel Schroeder, Ph.D., Peter Sorce, and David Thompson, Ph.D. (*arrived at 9:12 a.m. via GoToMeeting and in person at 9:52 a.m.*)

STAFF: Dan Williams, Executive Director; Sharon Henes, Administrative Rules Coordinator; Kate Stolarzyk, Bureau Assistant; and other Department Staff

CALL TO ORDER

Daniel Schroeder, Chair, called the meeting to order at 9:07 a.m. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

MOTION: David Thompson moved, seconded by Rebecca Anderson, to amend the agenda to include Public Comments as item G. Motion carried unanimously.

APPROVAL OF MEETING MINUTES OF NOVEMBER 29, 2017

MOTION: Peter Sorce moved, seconded by Marcus Desmonde, to approve the minutes of November 29, 2017 as published. Motion carried unanimously.

ADMINISTRATIVE MATTERS

(David Thompson arrived at 9:12 a.m. via GoToMeeting)

Election of Officers

2018 OFFICER ELECTION RESULTS	
Board Chair	Daniel Schroeder, Ph.D.
Vice Chair	Marcus Desmonde, Psy.D.
Secretary	Rebecca Anderson, Ph.D.

NOMINATION: Peter Sorce nominated the 2017 slate of officers to continue in 2018.

Dan Williams called for nominations three (3) times.

The 2017 Slate of Officers was re-elected to continue in 2018.

Appointment of Liaisons and Alternates

2018 LIAISON APPOINTMENTS	
Credentialing Liaisons	Rebecca Anderson, Ph.D. Marcus Desmonde, Psy.D. Daniel Schroeder, Ph.D. David Thompson, Ph.D.
Continuing Education Liaison	Marcus Desmonde, Psy.D.
Monitoring Liaison	Rebecca Anderson, Ph.D. David Thompson, Ph.D.
Professional Assistance Procedure (PAP) Liaison	Rebecca Anderson, Ph.D. Marcus Desmonde, Psy.D.
Legislative Liaison	Daniel Schroeder, Ph.D.
Screening Panel Liaisons	Rebecca Anderson, Ph.D. David Thompson, Ph.D. Peter Sorce

MOTION: David Thompson moved, seconded by Rebecca Anderson, to affirm the Chair's appointment of liaisons for 2018. Motion carried unanimously.

Delegation of Authorities

Document Signature Delegation

MOTION: David Thompson moved, seconded by Rebecca Anderson, to delegate authority to the Chair to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair has the ability to delegate this signature authority to the Board's Executive Director for purposes of facilitating the completion of assignments during or between meetings. Motion carried unanimously.

Delegated Authority for Urgent Matters

MOTION: Peter Sorce moved, seconded by Rebecca Anderson, in order to facilitate the completion of assignments between meetings, the Board delegates its authority by order of succession to the Chair, to appoint liaisons to the Department to act where knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

Monitoring Delegations

MOTION: Christopher Gultch moved, seconded by Rebecca Anderson, to adopt the ‘Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor’ document as presented. Motion carried unanimously.

Credentialing Authority Delegation

Delegation of Authority to Credentialing Liaison

MOTION: David Thompson moved, seconded by Marcus Desmonde, to delegate authority to the Credentialing Liaisons to address all issues related to credentialing matters. Motion carried unanimously.

Delegation of Authority to DSPS When Rule and Statute Criteria is Met

MOTION: David Thompson moved, seconded by Christopher Gultch, to delegate credentialing authority to DSPS for those submitted applications that meet the criteria of Rule and Statute and thereby would not need further Board or Board liaison review. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: Peter Sorce moved, seconded by Marcus Desmonde, to formally authorize Board Counsel or another Department attorney to serve as the Board’s designee for purposes of Wis. Admin. Code SPS § 1.08(1). Motion carried unanimously.

Continuing Education Authority Delegation

MOTION: David Thompson moved, seconded by Rebecca Anderson, to delegate authority to the Continuing Education Liaison(s) to address all issues related to continuing education. Motion carried unanimously.

Authorization for DSPS to Provide Board Member Contact Information to National Regulatory Bodies

MOTION: Christopher Gultch moved, seconded by David Thompson, to authorize Department staff to provide national regulatory bodies with all Board/Council member contact information that the Department retains on file. Motion carried unanimously.

Legislative Liaison Delegation

MOTION: David Thompson moved, seconded by Marcus Desmonde, to delegate authority to the Legislative Liaison(s) to address issues related to legislative matters. Motion carried unanimously.

REQUEST FROM WISCONSIN PSYCHOLOGICAL ASSOCIATION RELATING TO A CHANGE IN CONTINUING EDUCATION

MOTION: Marcus Desmonde moved, seconded by Peter Sorce, to respectfully acknowledge the request from the Wisconsin Psychological Association to amend the rule relating to professional activities as continuing education. After careful deliberation, the Board moves to decline to initiate the rule promulgation process on this item. Motion carried unanimously.

(Christopher Gultch and David Thompson arrived at 9:52 a.m.)

LEGISLATION AND ADMINISTRATIVE RULE MATTERS

PSY 4, Relating to CE Audits, Renewal and Reinstatement

MOTION: David Thompson moved, seconded by Rebecca Anderson, to approve the Scope Statement as amended revising Psy 4, relating to CE audits, renewal, and reinstatement, for submission to the Department of Administration and Governor's Office and for publication. Additionally, the Board authorizes the Chair to approve the Scope Statement for implementation no less than 10 days after publication. Motion carried unanimously.

PSY 2, Relating to Licensure of Psychologists

MOTION: Marcus Desmonde moved, seconded by Rebecca Anderson, to invite the Wisconsin Psychological Association and task force to a future Board meeting to discuss the process for statutory changes. Motion carried unanimously.

CLOSED SESSION

MOTION: Marcus Desmonde moved seconded by Peter Sorce, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). Daniel Schroeder, Chair, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Rebecca Anderson-yes; Marcus Desmonde-yes; Christopher Gultch-yes; Daniel Schroeder-yes; Peter Sorce-yes; David Thompson-yes. Motion carried unanimously.

The Board convened into Closed Session at 10:54 a.m.

At this time, all external communication contacts will be terminated for purposes of going into Closed Session.

RECONVENE TO OPEN SESSION

MOTION: Peter Sorce moved, seconded by David Thompson, to reconvene into open session. Motion carried unanimously.

The Board reconvened into Open Session at 12:08 p.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

MOTION: Marcus Desmonde moved, seconded by Peter Sorce, to affirm all motions made and votes taken in closed session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote.)

APPEARANCE: DLSC STAFF, AND M.J.A. – REVIEW OF ADMINISTRATIVE WARNING (WARN00000707/DLSC CASE NUMBER 16 PSY 028)

MOTION: Marcus Desmonde moved, seconded by Peter Sorce, to affirm the Administrative Warning in the matter of M.J.A., Administrative Warning WARN00000707/DLSC Case Number 16 PSY 028. Motion carried.

(David Thompson recused himself and left the room for deliberation, and voting in the matter concerning M.J.A., Respondent – Administrative Warning WARN00000707/DLSC Case Number 16 PSY 028.)

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Proposed Stipulations, Final Decisions and Orders

16 PSY 020 – Craig A. Modell, Ph.D

MOTION: Peter Sorce moved, seconded by Christopher Gultch, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Craig A. Modell, Ph.D., DLSC Case Number 16 PSY 020. Motion carried unanimously.

Monitoring

Larisa Hutchins, Psy. D. – Requesting Full Licensure

MOTION: David Thompson moved, seconded by Marcus Desmonde, to grant the request of Larisa Hutchins, Psy.D. for full licensure. Motion carried. Abstain: Rebecca Anderson.

ADJOURNMENT

MOTION: David Thompson moved, seconded by Marcus Desmonde, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:45 a.m.

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Sharon Henes Administrative Rules Coordinator		2) Date When Request Submitted: 30 May 2018 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Psychology Examining Board			
4) Meeting Date: 8 June 2018	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislation and Rule Matters – Discussion and Consideration 1. Adopt CR 17-078 Relating to Unprofessional Conduct 2. Psychology Practice Act 3. Update on Legislation and Pending and Possible Rulemaking Projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization <div style="text-align: center; font-size: 1.2em; font-weight: bold; margin-bottom: 10px;"><i>Sharon Henes</i></div> <hr/> Signature of person making this request Date <hr/> Supervisor (if required) Date <hr/> Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	PSYCHOLOGY EXAMINING BOARD
PSYCHOLOGY EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 17-078)

ORDER

An order of the Psychology Examining Board to repeal Psy 5.01 (18), and (33) (a) to (e) and Psy 5.02; to renumber and amend Psy 5.01 (33) (intro.); to amend Psy 5.01 (2), (5), (8), (24), (25), (28), (29), (30) (c), 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.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 455.09, stats.

Statutory authority: ss. 15.08 (5) (b) and 455.08, Stats.

Explanation of agency authority:

§ 15.08(5)(b) Each examining board shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.

§ 455.08 The examining board shall adopt such rules as are necessary under this chapter

Related statute or rule: n/a

Plain language analysis:

This rule updates the unprofessional conduct rules which have not had a comprehensive review and update since 2003.

Sections 1 and 3 add private practice of school psychology to reflect the other license under the jurisdiction of the board.

Section 2 clarifies that engaging in conduct that falls below the standard of minimal competence is unprofessional conduct.

Section 4 adds exploitative billing practices as conduct which is unprofessional conduct.

Section 5 clarifies it is unprofessional conduct to not have security protocols in place for access to information received from a client recognizing that current psychology practice includes electronic forms of communication which need to have security protocols to protect confidential matters.

Section 6 repeals and recreates the provision relating to prohibited dual relationships to clarify the prohibited dual relationships are those reasonably likely to impair objectivity while providing services. This modification is recognizing that there are natural dual relationships which do not impair objectivity and would be difficult to avoid particularly in rural areas.

Section 7 repeals the requirement that treatment consultation must be preceded by an assessment, evaluation, or diagnosis in recognition that this information may be provided by the person requesting the consultation to the person providing the treatment consultation.

Section 8 simplifies the requirement for licensees to respond to requests from the board.

Section 9 modifies “impersonation” to “appropriation of the identity” for clarification purposes.

Section 10 states it is unprofessional conduct to violate chapter 455, stats. or any rule of the board.

Section 11 cleans up the language relating to the duty to report disciplinary or adverse action taken by another jurisdiction.

Section 12 updates the language for “a” prohibited dual relationship to “any” prohibited dual relationship.

Section 13 clarifies the unprofessional conduct provision relating to disciplinary or adverse action in another jurisdiction.

Sections 14 and 15 repeal the list of items which were required to be contained in a record.

Section 16 states it is unprofessional conduct to violate an order of any board or jurisdiction which regulates the practice of psychology or school psychology. It removes the provision relating to unprofessional conduct is the violation of rule or statute as it is addressed elsewhere in the rule and therefore it was redundant.

Section 17 repeals the actions subsequent to disciplinary proceedings as it is an undue burden to require licensees to notify all clients when any disciplinary action is taken and specific disciplinary orders may include a notification requirement where necessary.

Summary of, and comparison with, existing or proposed federal regulation: None

Comparison with rules in adjacent states:

Illinois: Illinois defines unprofessional conduct. Illinois provisions which relate to this updated rule include: failure to provide techniques or procedures used in professional activities to the board upon request; and impersonating another person holding a license.

Iowa: Iowa defines unprofessional conduct. Iowa provisions which relate to this updated rule include: failure to conform to the minimal standard of acceptable and prevailing practice; failure to respond to the board within 30 days of communication from the board; violation of any law or rule of Iowa or another state; and failure to notify the board of discipline by other jurisdictions.

Michigan: Michigan defines unprofessional conduct. Michigan provision which relates to this updated rule include: prohibiting engaging in a multiple relationship when there is a reasonable risk of harm or exploitation.

Minnesota: Minnesota defines unprofessional conduct. Minnesota provisions which relate to this updated rule include: failure to provide competent provision of services; safeguarding the private information obtained in the course of the practice of psychology; and prohibit engaging in situations involving impaired objectivity or effectiveness. Minnesota does have a list of required elements to be maintained in a psychology patient record.

Summary of factual data and analytical methodologies:

The board reviewed the rule to ensure the rules reflect current practice in the profession.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

This rule was posted for economic comments and none were received. This rule relates to unprofessional conduct.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Kirsten.Reader@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. Psy 5.01 (2) is amended to read:

Psy 5.01 (2) Gross negligence in the practice of psychology or private practice of school psychology.

SECTION 2. Psy 5.01 (2m) is created to read:

Psy 5.01 (2m) Engaging in conduct that falls below the standard of minimal competence within the practice of psychology or school psychology.

SECTION 3. Psy 5.01 (5) is amended to read:

Psy 5.01 (5) Conviction of a crime or violation of any law the circumstances of which substantially relate to the circumstances of the ~~professional~~ practice of psychology or private practice of school psychology.

SECTION 4. Psy 5.01 (8) is amended to read:

Psy 5.01 (8) Engaging in false, fraudulent, exploitative, misleading or deceptive billing practices.

SECTION 5. Psy 5.01 (12m) is created to read:

Psy 5.01 (12m) Failing to have security protocols for access to facts, data, information, records or communication received from a client in a professional capacity.

SECTION 6. Psy 5.01 (17) is repealed and recreated to read:

Psy 5.01(17) Engaging in any prohibited dual relationship or any relationship which is reasonably likely to impair the licensee's objectivity in providing professional services.

SECTION 7. Psy 5.01 (18) is repealed.

SECTION 8. Psy 5.01 (24) is amended to read:

Psy 5.01 (24) Failure to respond honestly and in a timely manner to a request for information ~~from the board or with any other request for information~~ by the board. Taking longer than 30 days to respond creates a rebuttable presumption that the response is not timely.

SECTION 9. Psy 5.01 (25) is amended to read:

Psy 5.01 (25) ~~Impersonation~~ Appropriation of the identity of another person holding a license issued by this or another board.

SECTION 10. Psy 5.01 (28) is amended to read:

Psy 5.01 (28) Violation of ch. 455, Stats., or any rule of professional conduct promulgated under ~~eh. 455, Stats.~~ promulgated by the board.

SECTION 11. Psy 5.01 (29) is amended to read:

Psy 5.01 (29) Failure to notify the board within 30 days of having a license, certificate, permit or registration ~~any disciplinary or adverse action taken by any other jurisdiction against a license, certificate, permit or registration granted by this or any other state~~ for the practice of psychology or school psychology ~~limited, restricted, suspended or revoked, or having been subject to other disciplinary action by the licensing or certifying authority thereof.~~

SECTION 12. Psy 5.01 (30) (c) is amended to read:

Psy 5.01 (30) (c) Failure to avoid a any prohibited dual relationship or any relationship which is reasonably likely to impair the licensee's objectivity in providing professional services.

SECTION 13. Psy 5.01 (32) is repeal and recreated to read:

Psy 5.01 (32) Having a credential granted by another jurisdiction to practice psychology or school psychology denied, limited, suspended, surrendered or revoked, or otherwise disciplined or adverse action taken, whether or not accompanied by findings of negligence or unprofessional conduct.

SECTION 14. Psy 5.01 (33) (intro) is renumbered Psy 5.01 (33) and amended to read:

Psy 5.01 (33) Failure to maintain adequate records relating to services provided to a client in the course of a professional relationship. Each patient record entry shall be dated, shall identify the treating ~~therapist~~ psychologist, and shall be sufficiently legible to be understood and to allow interventions by other professionals. Unless records are subject to a different records retention policy by an entity with an obligation to maintain treatment records, a licensee shall retain treatment records for at least 7 years. ~~Such records shall contain all of the following:~~

SECTION 15. Psy 5.01 (33) (a) through (e) are repealed.

SECTION 16. Psy 5.01 (34) is amended to read:

Psy 5.01 (34) Violating any provision of ~~eh. 455, Stats., or any rule or an order of~~ any board or jurisdiction that regulates the practice of psychology or school psychology.

SECTION 17. Psy 5.02 is repealed.

SECTION 18. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated _____

Chair
Psychology Examining Board



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-0483/1
MED:amn

2017 ASSEMBLY BILL 763

December 19, 2017 - Introduced by Representatives TITTL, BROSTOFF, CONSIDINE, JACQUE, KATZMA, KREMER, NOVAK, QUINN, ROHRKASTE, SANFELIPPO, SKOWRONSKI, SPIROS and VANDERMEER, cosponsored by Senators DARLING, LARSON and OLSEN. Referred to Committee on Regulatory Licensing Reform.

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,

ASSEMBLY BILL 763

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

ASSEMBLY BILL 763

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:

ASSEMBLY BILL 763**SECTION 2**

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

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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.

ASSEMBLY BILL 763**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

ASSEMBLY BILL 763**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

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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)~~

ASSEMBLY BILL 763**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~~

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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:

ASSEMBLY BILL 763**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

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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).

ASSEMBLY BILL 763**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:

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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.**

ASSEMBLY BILL 763**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:

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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

ASSEMBLY BILL 763**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)