

STATE OF WISCONSIN
PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : PSYCHOLOGY EXAMINING BOARD
PSYCHOLOGY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Psychology Examining Board to repeal and recreate Psy 2.01 (8) relating to discrimination based on arrest or conviction record.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 111.321, 111.322, 111.335 and 455.04 (1) (b), Stats.

Statutory authority: Section 15.08 (5) (b), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats.: 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.

Related statute or rule: None.

Plain language analysis:

2017 Wisconsin Act 278 enacted statutory changes to ch. 111, Stats., prohibiting a licensing agency from refusing to license an individual, or suspending a license, on the basis of a substantially related pending criminal charge, unless the charge is for one of certain specified crimes against a child or life and bodily security, or a violent crime against a child.

This rule project revises Psy 2 pertaining to applications in order to clarify that applicants are required to submit documentation of their conviction record, and are only required to submit documentation of a pending charge if it is substantially related to the practice and it involves a crime against a child or life and bodily security, or a violent crime against a child, as defined in s. 111.335, Stats.

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

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule:

A preliminary hearing on scope for SS 006-19, revising Psy 2, was held at the July 24, 2019 meeting of the Psychology Examining Board. No comments were received.

Comparison with rules in adjacent states:

Illinois: Illinois law allows the Department of Financial Regulation, which regulates psychologists, to: "...refuse to issue, refuse to renew, suspend, or revoke any license, or may place on probation, reprimand, or take other disciplinary or non-disciplinary action deemed appropriate by the Department, including the imposition of fines not to exceed \$10,000 for each violation" where a licensee or applicant has been convicted of, or entered a nolo contendere or guilty plea, any felony under the laws of the United States or any state or territory thereof or that is a misdemeanor of which an essential element is dishonesty, or any crime that is directly related to the practice of the profession (225 ILCS 15/15 (1)).

Iowa: Iowa licensed psychologists may be disciplined, including revocation or suspension of a license, if they are convicted of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred (645 IA Admin Code s. 242.2).

Michigan: A Michigan psychologist license can be denied, suspended, revoked, or limited if the psychologist exhibits a lack of good moral character, or has been convicted of the following (MCLS s. 333.16221):

“(v) Conviction of a misdemeanor punishable by imprisonment for a maximum term of 2 years; conviction of a misdemeanor involving the illegal delivery, possession, or use of a controlled substance; or conviction of any felony other than a felony listed or described in another subparagraph of this subdivision. A certified copy of the court record is conclusive evidence of the conviction.

(vi) Lack of good moral character.

(vii) Conviction of a criminal offense under section 520e or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g. A certified copy of the court record is conclusive evidence of the conviction.

(viii) Conviction of a violation of section 492a of the Michigan penal code, 1931 PA 328, MCL 750.492a. A certified copy of the court record is conclusive evidence of the conviction.

(ix) Conviction of a misdemeanor or felony involving fraud in obtaining or attempting to obtain fees related to the practice of a health profession. A certified copy of the court record is conclusive evidence of the conviction.

(x) Final adverse administrative action by a licensure, registration, disciplinary, or certification board involving the holder of, or an applicant for, a license or registration regulated by another state or a territory of the United States, by the United States military, by the federal government, or by another country. A certified copy of the record of the board is conclusive evidence of the final action.

(xi) Conviction of a misdemeanor that is reasonably related to or that adversely affects the licensee's or registrant's ability to practice in a safe and competent manner. A certified copy of the court record is conclusive evidence of the conviction.

(xii) Conviction of a violation of section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430. A certified copy of the court record is conclusive evidence of the conviction.

(xiii) Conviction of a criminal offense under section 83, 84, 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.84, 750.316, 750.317, 750.321, 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the court record is conclusive evidence of the conviction.

(xiv) Conviction of a violation of section 136 or 136a of the Michigan penal code, 1931 PA 328, MCL 750.136 and 750.136a. A certified copy of the court record is conclusive evidence of the conviction.”

Minnesota:

Under the Minnesota Psychology Board's rules of conduct, licensed psychologists must not violate any law in which the facts giving rise to the violation involve the practice of psychology. Violations of the rules of conduct can result in disciplinary action including denial of licensure. (Minn. Admin Rules s. 7200.4500 and 7200.5500).

Summary of factual data and analytical methodologies:

The Psychology Examining Board reviewed and seeks to revise its rules to bring them into compliance with the statutory changes enacted by 2017 Wisconsin Act 278.

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

The rule will be posted for 14 days on the department's website to solicit input on possible economic impact.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis will be attached upon its completion.

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 Daniel.Hereth@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, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before TBD to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Psy 2.01 (8) is repealed and recreated to read:

Psy 2.01 (8) Documentation necessary for the board to determine, subject to ss. 111.321, 111.322, and 111.335, Stats., whether any of the following apply:

(a) The applicant has a pending charge for an exempt offense as defined in s. 111.335 (1m) (b), Stats. or a violent crime against a child, as defined in s. 111.335 (1m) (d), Stats., which is substantially related to the practice of a psychologist.

(b) The applicant has been convicted of a crime substantially related to the practice of a psychologist.

SECTION 2. 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)

Chapter Psy 2

REQUIREMENTS FOR EXAMINATION AND LICENSURE OF PSYCHOLOGISTS

<p>Psy 2.01 Application procedure. Psy 2.013 Reciprocity. Psy 2.015 Application abandonment. Psy 2.018 American Board of Professional Psychology diploma. Psy 2.05 Passing scores.</p>	<p>Psy 2.09 Education and experience equivalent to a doctoral degree in psychology. Psy 2.10 Supervised psychological experience. Psy 2.14 Temporary practice.</p>
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Psy 2.01 Application procedure. An applicant for licensure as a psychologist shall submit all of the following:

- (1) The properly completed and signed application form.
- (2) The application fee authorized by s. 440.05 (1), Stats.
- (3) Evidence of one of the following:

(a) Official transcript indicating a doctoral degree in psychology from a college or university accredited by a regional accrediting agency approved by the state board of education in the state in which the college or university is located.

(b) Academic training or specialized experience which in the opinion of the board is equivalent to a doctoral degree in psychology.

(c) Documentation of academic credentials evaluated by the National Register of Health Service Psychologists or other credential evaluation organization approved by the Board.

(4) Documentation of at least one year experience in psychological work meeting the requirements in s. Psy 2.10.

(5) Evidence of passing the EPPP.

(6) Evidence of passing the jurisprudence exam.

(7) Verification of the applicant's credentials in all states or countries in which the applicant has ever held a credential.

(8) For applicants who have a pending criminal charge or have been convicted of a crime, all related information necessary for the board to determine whether the circumstances of the pending criminal charge or conviction are substantially related to the practice of psychology.

History: Cr. Register, September, 1991, No. 429, eff. 10-1-91; am. (intro.), Register, August, 1993, No. 452, eff. 9-1-93; correction in (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1995, No. 473; am. (3), Register, January, 1997, No. 493, eff. 2-1-97; am. (1), (2) and (7), Register, June, 1999, No. 522, eff. 7-1-99; CR 02-124; am. (12) Register July 2003 No. 571, eff. 8-1-03; correction in (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register July 2004 No. 583; CR 15-102: r. and recr. Register August 2016 No. 728, eff. 9-1-16; correction in (4) made under s. 35.17, Stats., Register August 2016 No. 728.

Psy 2.013 Reciprocity. An applicant who holds an active license in another state, territory, foreign country or province whose license standards are deemed by the board to be equivalent to the standards in this state may apply for license by submitting the following:

- (1) The properly completed and signed application form.
- (2) The application fee authorized by s. 440.05 (1), Stats.
- (3) Evidence of one of the following:

(a) Evidence of passing the EPPP.

(b) Evidence of completion of at least 40 board approved continuing education hours obtained within 2 years prior to application.

(4) Evidence of passing the jurisprudence exam.

History: CR 15-102: cr. Register August 2016 No. 728, eff. 9-1-16.

Psy 2.015 Application abandonment. An applicant who files an application but who does not comply with a request for information related to the application within one year of the date of the board's last request shall file a new application. An applicant who files an application but who does not fully complete

the application within 3 years of the date of the application shall file a new application.

History: Cr., Register, January, 1997, No. 493, eff. 2-1-97.

Psy 2.018 American Board of Professional Psychology diploma. An applicant who holds a diploma of the American Board of Professional Psychology may apply for a license by submitting the following:

(1) The properly completed and signed application form.

(2) The application fee authorized by s. 440.05 (1), Stats.

(3) Evidence of passing the EPPP.

(4) Evidence of passing the jurisprudence exam.

History: CR 15-102: cr. Register August 2016 No. 728, eff. 9-1-16.

Psy 2.05 Passing scores. (1) The passing score on each examination is determined by the board to represent minimum competence.

(2m) The board may adopt the recommended passing score of the examination provider for the EPPP.

(4) The board shall make the determination of the passing score of the jurisprudence exam after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics.

History: Cr. Register, September, 1991, No. 429, eff. 10-1-91; r. and recr., Register, January, 1997, No. 493, eff. 2-1-97; CR 15-102: am. (1), r. (2), (3), am. (4) Register August 2016 No. 728, eff. 9-1-16.

Psy 2.09 Education and experience equivalent to a doctoral degree in psychology. The equivalent to a doctorate in psychology is a doctorate degree which meets all of the following requirements:

(1) The curriculum shall contain all of the following content:

(a) Scientific psychology, including all of the following:

1. Biological aspects of behavior.
2. Cognitive and affective aspects of behavior.
3. Social aspects of behavior.
4. History and systems of psychology.
5. Psychological measurement.
6. Research methodology.
7. Techniques of data analysis.

(b) Scientific, methodical and theoretical foundations of practice in the substantive area of professional psychology in which the program has its training emphasis including all of the following:

1. Individual differences in behavior.
2. Human development.
3. Dysfunctional behavior or psychopathology.
4. Professional standards and ethics.

(c) Diagnosing or defining problems through psychological assessment and measurement and formulating and implementing intervention strategies including all of the following:

1. Theories and methods of assessment and diagnosis.
2. Effective intervention.

3. Consultation and supervision.
4. Evaluating the efficacy of interventions.
- (d) Issues of cultural diversity and individual differences.

(e) Skills essential for lifelong learning, scholarly inquiry and professional problem-solving as psychologists in the context of an evolving body of scientific and professional knowledge.

(2) The doctoral degree shall include any of the following: practicum, internship, field or laboratory training. This experience shall be supervised by a person with a doctoral degree in psychology.

History: Cr. Register, September, 1991, No. 429, eff. 10-1-91; am. (2) (a) 1., 4. and 5., Register, November, 1992, No. 443, eff. 12-1-92; cr. (4), Register, August, 1993, No. 452, eff. 9-1-93; am. (1) (a), (3) (a) 2., 10., (b), (c) and (4), r. (1) (j) and (2), Register, June, 1999, No. 522, eff. 7-1-99; correction in (5) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1999, No. 522; CR 02-124: am. (3) (a) 1. to 3., 5., 7., (b), and (c) Register July 2003 No. 571, eff. 8-1-03; CR 04-021: am. (1) (i), r. (5) Register July 2004 No. 583, eff. 8-1-04; CR 12-055: am. (4) Register August 2013 No. 692, eff. 9-1-13; CR 15-102: r. and recr. Register August 2016 No. 728, eff. 9-1-16.

Psy 2.10 Supervised psychological experience. A one year experience in psychological work after a doctoral degree in psychology or its equivalent under conditions satisfactory to the examining board shall include all of the following:

(1) Completion of 2000 hours of the supervised psychological experience in no more than 24 months.

(2) Clients shall be informed that the psychological trainee is receiving supervision and that the client's case will be discussed in the context of required supervision. The trainee must inform potential clients in writing of his or her trainee status and lack of license.

(3) A minimum of 25% of the experience required shall consist of face-to-face client contact.

(4) A total of 65% of the experience required shall consist of the face-to-face client contact required under sub. (3) and direct service for the purpose of providing psychological service. For the purposes of this subsection, direct service means those activities a psychologist performs that are directly related to providing psychological services to a client, including note and report writing, studying test results, case consultation, and reviewing published works relating to the client's needs.

(5) The primary supervisor shall be a licensed psychologist and shall have adequate training, knowledge, and skill to render competently any psychological service that a psychological trainee undertakes. The primary supervisor shall have post-licensure experience and shall have had training or experience in super-

vision of psychological work. Supervisors shall not be an immediate relative by blood or marriage.

(6) The supervisor's responsibilities include all of the following:

(a) Permit a trainee to engage in only psychological practice the supervisor can competently perform.

(b) Have sufficient knowledge of the trainee's clients to ensure effective service. This may include ongoing face-to-face contact with the client.

(c) Monitor the progress of the work on a regular basis.

(d) Determine the adequacy of the trainee's preparation for the tasks to be performed.

(e) Provide a written evaluation of the supervised experience. Prepared evaluations or reports of progress, including strengths and weakness, shall be written and discussed with the trainee on at least a semi annual basis and shall be made available to the board upon request.

(f) Be available or make appropriate provision for emergency consultation and intervention.

(g) Be legally and ethically responsible for the professional activities of the trainee.

(h) Be able to interrupt or stop the trainee from practicing in given cases.

(i) To terminate the supervised relationship if necessary.

History: CR 15-102: cr. Register August 2016 No. 728, eff. 9-1-16.

Psy 2.14 Temporary practice. (1) In this section, "working days" is defined as any day in which the psychologist provides services.

(2) A psychologist who is licensed by another state or territory of the United States or a foreign country or province whose standards, in the opinion of the board, are equivalent to or higher than than the requirements for licensure as a psychologist in s. 455.04 (1), Stats., may offer services as a psychologist in this state for not more than 60 working days in any year without holding a license issued under s. 455.04 (1), Stats.

(3) The psychologist shall report to the board the nature and extent of his or her practice in this state if it exceeds 20 working days within a year.

(4) A psychologist provides psychological services in this state whenever the patient or client is located in this state regardless of where the psychologist is located.

History: Cr. Register, June, 2001, No. 546, eff. 7-1-01; CR 15-102: r. and recr. Register August 2016 No. 728, eff. 9-1-16; (1) to (4) renum. from (intro.), (1), (2), (3) under s. 13.92 (4) (b) 1., Stats., and correction in (2) made under s. 35.17, Stats., Register August 2016 No. 728.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4024/1
MED:amn

2019 SENATE BILL 378

August 29, 2019 - Introduced by Senators DARLING, BERNIER, JACQUE, LARSON and STROEBEL, cosponsored by Representatives TITTL, KITCHENS, BORN, BOWEN, BROSTOFF, CROWLEY, DITTRICH, JAGLER, KULP, NEYLON, NOVAK, OTT, QUINN, ROHRKASTE, SKOWRONSKI, TRANEL, VANDERMEER, VRUWINK and ZIMMERMAN. Referred to Committee on Public Benefits, Licensing and State-Federal Relations.

1 **AN ACT** *to repeal* 455.01 (4), 455.01 (7), 455.02 (2m) (h), 455.02 (3m) (title),
2 455.045 (2), 455.065 (3), 455.07, 455.08 and 455.10; *to renumber and amend*
3 455.02 (1m) and 455.02 (3m); *to amend* 15.405 (10m), 48.375 (2) (c), 48.375 (4)
4 (b) 1m., 49.45 (30f), 50.06 (4), 50.94 (8), 51.30 (1) (b), 54.01 (27), 155.05 (2),
5 440.08 (2) (a) (intro.), 440.88 (3m), 455.01 (3m), 455.02 (1m) (title), 455.02 (2m)
6 (d), 455.02 (2m) (m), 455.03, 455.04 (title), 455.04 (1) (intro.), 455.04 (1) (b),
7 455.04 (1) (c), 455.04 (1) (e), 455.04 (3), 455.04 (5), 455.045 (1), 455.065 (1),
8 455.065 (4), 455.065 (5), 455.09 (1) (intro.), 455.09 (1) (b), 455.09 (1) (g), 455.09
9 (3) and 905.04 (1) (e); *to repeal and recreate* 455.01 (5), 455.01 (6), 455.02
10 (2m) (f), 455.02 (2m) (k), 455.04 (1) (d), 455.04 (4), 455.045 (3), 455.06 and
11 455.09 (title); and *to create* 455.02 (2m) (o) to (s), 455.025, 455.04 (1) (dm),
12 455.04 (2), 455.065 (6) and (7), 455.09 (1) (i), 455.09 (1) (j), 455.09 (4) and
13 455.095 of the statutes; **relating to:** the practice of psychology, extending the
14 time limit for emergency rule procedures, providing an exemption from

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- 1 emergency rule procedures, granting rule-making authority, and requiring the
2 exercise of rule-making authority.
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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 school psychologists

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 postdoctoral supervised experience requirement. An interim license is valid for two years or until the individual obtains a permanent license, subject to a hardship

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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.** 48.375 (2) (c) of the statutes is amended to read:

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1 48.375 (2) (c) “Counselor” means a physician including a physician specializing
2 in psychiatry, a licensed psychologist, ~~as defined in s. 455.01 (4)~~ licensed under ch.
3 455, or an ordained member of the clergy. “Counselor” does not include any person
4 who is employed by or otherwise affiliated with a reproductive health care facility,
5 a family planning clinic, or a family planning agency; any person affiliated with the
6 performance of abortions, except abortions performed to save the life of the mother;
7 or any person who may profit from giving advice to seek an abortion.

8 **SECTION 3.** 48.375 (4) (b) 1m. of the statutes is amended to read:

9 48.375 (4) (b) 1m. A physician who specializes in psychiatry or a licensed
10 psychologist, ~~as defined in s. 455.01 (4)~~, licensed under ch. 455 states in writing that
11 the physician or psychologist believes, to the best of his or her professional judgment
12 based on the facts of the case before him or her, that the minor is likely to commit
13 suicide rather than file a petition under s. 48.257 or approach her parent, or guardian
14 or legal custodian, if one has been appointed, or an adult family member of the minor,
15 or one of the minor’s foster parents, if the minor has been placed in a foster home and
16 the minor’s parent has signed a waiver granting the department, a county
17 department, or the foster parent the authority to consent to medical services or
18 treatment on behalf of the minor, for consent.

19 **SECTION 4.** 49.45 (30f) of the statutes is amended to read:

20 49.45 (30f) PSYCHOTHERAPY AND ALCOHOL AND OTHER DRUG ABUSE SERVICES. The
21 department shall include licensed mental health professionals, as defined in s.
22 632.89 (1) (dm), and licensed psychologists, ~~as defined in s. 455.01 (4)~~ licensed under
23 ch. 455, as providers of psychotherapy and of alcohol and other drug abuse services.
24 Except for services provided under sub. (30e), the department may not require that
25 licensed mental health professionals or licensed psychologists be supervised; may

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1 not require that clinical psychotherapy or alcohol and other drug abuse services be
2 provided under a certified program; and, notwithstanding subs. (9) and (9m), may
3 not require that a physician or other health care provider first prescribe
4 psychotherapy or alcohol and other drug abuse services to be provided by a licensed
5 mental health professional or licensed psychologist before the professional or
6 psychologist may provide the services to the recipient. This subsection does not
7 affect the department's powers under ch. 50 or 51 to establish requirements for
8 facilities that are licensed, certified, or operated by the department.

9 **SECTION 5.** 50.06 (4) of the statutes is amended to read:

10 50.06 (4) A determination that an individual is incapacitated for purposes of
11 sub. (2) shall be made by 2 physicians, as defined in s. 448.01 (5), or by one physician
12 and one licensed psychologist, ~~as defined in s. 455.01 (4)~~ licensed under ch. 455, who
13 personally examine the individual and sign a statement specifying that the
14 individual is incapacitated. Mere old age, eccentricity, or physical disability, either
15 singly or together, are insufficient to make a finding that an individual is
16 incapacitated. Neither of the individuals who make a finding that an individual is
17 incapacitated may be a relative, as defined in s. 242.01 (11), of the individual or have
18 knowledge that he or she is entitled to or has a claim on any portion of the individual's
19 estate. A copy of the statement shall be included in the individual's records in the
20 facility to which he or she is admitted.

21 **SECTION 6.** 50.94 (8) of the statutes is amended to read:

22 50.94 (8) A determination that a person is incapacitated may be made only by
23 2 physicians or by one physician and one ~~licensed psychologist, as defined in s. 455.01~~
24 ~~(4)~~, licensed under ch. 455 who personally examine the person and sign a statement
25 specifying that the person is incapacitated. Mere old age, eccentricity, or physical

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1 disabilities, singly or together, are insufficient to determine that a person is
2 incapacitated. Whoever determines that the person is incapacitated may not be a
3 relative, as defined in s. 242.01 (11), of the person or have knowledge that he or she
4 is entitled to or has claim on any portion of the person's estate. A copy of the
5 statement shall be included in the records of the incapacitated person in the hospice
6 to which he or she is admitted.

7 **SECTION 7.** 51.30 (1) (b) of the statutes is amended to read:

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

18 **SECTION 8.** 54.01 (27) of the statutes is amended to read:

19 54.01 (27) "Psychologist" means a licensed psychologist, ~~as defined in s. 455.01~~
20 ~~(4)~~ licensed under ch. 455.

21 **SECTION 9.** 155.05 (2) of the statutes is amended to read:

22 155.05 (2) Unless otherwise specified in the power of attorney for health care
23 instrument, an individual's power of attorney for health care takes effect upon a
24 finding of incapacity by 2 physicians, as defined in s. 448.01 (5), or one physician and
25 one ~~licensed psychologist, as defined in s. 455.01 (4)~~ licensed under ch. 455, who

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1 personally examine the principal and sign a statement specifying that the principal
2 has incapacity. Mere old age, eccentricity, or physical disability, either singly or
3 together, are insufficient to make a finding of incapacity. Neither of the individuals
4 who make a finding of incapacity may be a relative of the principal or have knowledge
5 that he or she is entitled to or has a claim on any portion of the principal's estate.
6 A copy of the statement, if made, shall be appended to the power of attorney for health
7 care instrument.

8 **SECTION 10.** 440.08 (2) (a) (intro.) of the statutes is amended to read:

9 440.08 (2) (a) (intro.) Except as provided in par. (b) and in ss. 440.51, 442.04,
10 444.03, 444.11, 447.04 (2) (c) 2., 449.17 (1m) (d), 449.18 (2) (e), 455.06 (1) (b), 463.10,
11 463.12, and 463.25 and subch. II of ch. 448, the renewal dates for credentials are as
12 follows:

13 **SECTION 11.** 440.88 (3m) of the statutes is amended to read:

14 440.88 (3m) EXCEPTION. This section does not apply to a physician, as defined
15 in s. 448.01 (5), a clinical social worker, as defined in s. 457.01 (1r), a licensed
16 psychologist, ~~as defined in s. 455.01 (4)~~ licensed under s. 455.04 (1) or (2), a marriage
17 and family therapist, as defined in s. 457.01 (3), or a professional counselor, as
18 defined in s. 457.01 (7), who practices as a substance abuse clinical supervisor or
19 provides substance abuse counseling, treatment, or prevention services within the
20 scope of his or her licensure.

21 **SECTION 12.** 455.01 (3m) of the statutes is amended to read:

22 455.01 (3m) "Fee" "Fee," when used other than in reference to a fee for a
23 credential, means direct or indirect payment or compensation, monetary or
24 otherwise, including the expectation of payment or compensation whether or not
25 actually received.

SENATE BILL 378**SECTION 13**

1 **SECTION 13.** 455.01 (4) of the statutes is repealed.

2 **SECTION 14.** 455.01 (5) of the statutes is repealed and recreated to read:

3 455.01 **(5)** (a) “Practice of psychology” means the observation, description,
4 evaluation, interpretation, prediction, or modification of human behavior by the
5 application of psychological principles, methods, or procedures for any of the
6 following purposes, in exchange for a fee:

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

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

12 3. Assisting in legal decision making.

13 (b) “Practice of psychology” includes all of the following if done in exchange for
14 a fee:

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

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

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

23 4. Psychoeducational evaluation, therapy, or remediation.

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1 5. Consultation with other psychologists, physicians, or other health care
2 professionals and with a patient regarding all available treatment options with
3 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 15.** 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 16.** 455.01 (7) of the statutes is repealed.

16 **SECTION 17.** 455.02 (1m) (title) of the statutes is amended to read:

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

18 **SECTION 18.** 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 19.** 455.02 (2m) (d) of the statutes is amended to read:

SENATE BILL 378**SECTION 19**

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

20 **SECTION 20.** 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

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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 21.** 455.02 (2m) (h) of the statutes is repealed.

5 **SECTION 22.** 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 23.** 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 24.** 455.02 (2m) (o) to (s) 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

SENATE BILL 378**SECTION 24**

1 is employed, and has received a master's degree in psychology from a regionally
2 accredited higher educational institution or has fulfilled requirements
3 commensurate with a master's degree, as determined by the examining board. The
4 examining board may promulgate rules to further establish requirements for
5 exemptions under this paragraph for persons who do not hold a master's degree in
6 psychology. A person providing services under this paragraph may use the title
7 "psychological associate."

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

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

15 (r) A person engaging in the private practice of school psychology who holds a
16 valid private practice school psychologist license issued under s. 455.04 (4), 2017
17 stats. A person acting under this paragraph may use the title "private practice school
18 psychologist."

19 (s) A person who holds a doctoral degree in psychology but does not engage in
20 the practice of psychology. A person described in this paragraph may use the title
21 "psychologist" or "doctor of psychology."

22 **SECTION 25.** 455.02 (3m) (title) of the statutes is repealed.

23 **SECTION 26.** 455.02 (3m) of the statutes is renumbered 455.02 (1m) (b) and
24 amended to read:

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1 455.02 **(1m)** (b) Except as provided in ~~s. sub. (2m) and ss. 257.03 and 455.03,~~
2 only an individual licensed under s. 455.04 (1) or (2) may use the title “psychologist”
3 or any similar title or state or imply that he or she is licensed to practice psychology,
4 ~~and only an individual licensed under s. 455.04 (4) may use the title “private practice~~
5 ~~school psychologist” or any similar title or state or imply that he or she is licensed~~
6 ~~to engage in the private practice of school psychology. Except as provided in s. sub.~~
7 ~~(2m) and ss. 257.03 and 455.03,~~ only an individual licensed under s. 455.04 (1) ~~or (4)~~
8 ~~or (2)~~ may represent himself or herself to the public by any description of services
9 incorporating the word “psychological” or “psychology”~~.”.~~

10 **SECTION 27.** 455.025 of the statutes is created to read:

11 **455.025 Practice of medicine and surgery.** Nothing in this chapter shall
12 be construed to authorize a psychologist to engage in the practice of medicine and
13 surgery.

14 **SECTION 28.** 455.03 of the statutes is amended to read:

15 **455.03 Temporary practice.** A psychologist who is licensed or certified by
16 a similar examining board of another state or territory of the United States ~~or of a~~
17 ~~foreign country or a Canadian~~ province whose standards, in the opinion of the
18 ~~examining board, are equivalent to or higher than the requirements for licensure as~~
19 ~~a psychologist in s. 455.04 (1) may offer~~ provide psychological services as ~~a~~
20 ~~psychologist in this state for~~ on not more than 60 working days in any year without
21 holding a license issued under s. 455.04 (1). The psychologist shall report to the
22 examining board the nature and extent of his or her practice in this state if it exceeds
23 ~~20 working days within a year.~~ A psychologist provides psychological services in this
24 ~~state for purposes of this section whenever the patient or client is located in this~~
25 ~~state, regardless of whether the psychologist is temporarily located in this state or~~

SENATE BILL 378**SECTION 28**

1 is providing services by electronic or telephonic means from the state or province
2 where the psychologist is licensed. In this section, "day" means any part of a day
3 during which psychological services are rendered.

4 **SECTION 29.** 455.04 (title) of the statutes is amended to read:

5 **455.04 (title) Licensure of psychologists and ~~private practice school~~**
6 **psychologists.**

7 **SECTION 30.** 455.04 (1) (intro.) of the statutes is amended to read:

8 455.04 (1) (intro.) ~~The department~~ Subject to s. 455.09, the examining board
9 shall issue grant a psychologist license to an individual who submits an application
10 for the license to the department on a form provided by the department, pays the fee
11 specified in s. 440.05 (1) or, if sub. (3) applies, the fee specified in s. 440.05 (2)
12 determined by the department under s. 440.03 (9), and is found by the examining
13 board to meet satisfies all of the following requirements:

14 **SECTION 31.** 455.04 (1) (b) of the statutes is amended to read:

15 455.04 (1) (b) Subject to ss. 111.321, 111.322, and 111.335, not have an arrest
16 ~~or a~~ conviction record.

17 **SECTION 32.** 455.04 (1) (c) of the statutes is amended to read:

18 455.04 (1) (c) Hold a doctoral degree in psychology from a college or university
19 ~~accredited by a regional accrediting agency approved by the state board of education~~
20 ~~in the state in which the college or university is located~~ program accredited by the
21 American Psychological Association or the Canadian Psychological Association, or
22 have had other academic training or specialized experience, which in the opinion of
23 that the examining board is determines to be substantially equivalent thereto based
24 upon standards established by rule. The examining board may require examinations
25 to determine the equivalence of such training and experience and may also require

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1 examinations for individuals holding doctoral degrees in psychology from
2 non-American universities.

3 **SECTION 33.** 455.04 (1) (d) of the statutes is repealed and recreated to read:

4 455.04 (1) (d) Complete any predoctoral supervised experience requirements
5 established by the examining board by rule.

6 **SECTION 34.** 455.04 (1) (dm) of the statutes is created to read:

7 455.04 (1) (dm) Complete any postdoctoral supervised experience
8 requirements established by the examining board by rule.

9 **SECTION 35.** 455.04 (1) (e) of the statutes is amended to read:

10 455.04 (1) (e) Pass the examination under s. 455.045 (1) (a). ~~This paragraph~~
11 ~~does not apply to an applicant who is licensed as a psychologist in another state if~~
12 ~~the applicant submits proof of completion of continuing educational programs or~~
13 ~~courses approved under s. 455.065 (4) for the minimum number of hours required in~~
14 ~~the rules promulgated under s. 455.065 (3).~~

15 **SECTION 36.** 455.04 (2) of the statutes is created to read:

16 455.04 (2) Subject to s. 455.09, the examining board shall grant an interim
17 psychologist license to an individual who submits an application for the license, pays
18 the fee specified under s. 440.05 (6), and satisfies the requirements for a license
19 under sub. (1) (a) to (f), other than the requirement under sub. (1) (dm). An individual
20 licensed under this subsection may provide psychological services only under the
21 supervision of qualified supervisors, as determined by the examining board.

22 **SECTION 37.** 455.04 (3) of the statutes is amended to read:

23 455.04 (3) The examining board may waive the requirements of sub. (1) (c) and
24 (d) ~~to (e)~~ if ~~a candidate holds a diploma of the American board of examiners in~~
25 ~~professional psychology, or an applicant holds a certificate or license of an examining~~

SENATE BILL 378**SECTION 37**

1 board of some other state or territory ~~or foreign country~~ or a Canadian province, if
2 the standards of such other examining board are deemed by the members of this
3 examining board to be substantially equivalent to the standards of this state ~~and like~~
4 ~~reciprocity is extended to holders of licenses issued by this state.~~

5 **SECTION 38.** 455.04 (4) of the statutes is repealed and recreated to read:

6 455.04 (4) An individual who, on the day before the effective date of this
7 subsection [LRB inserts date], held a valid private practice school psychologist
8 license under s. 455.04 (4), 2017 stats., may continue to renew that license as
9 provided in s. 455.06. The examining board may not grant any initial private
10 practice school psychologist license based on an application received on or after the
11 effective date of this subsection [LRB inserts date].

12 **SECTION 39.** 455.04 (5) of the statutes is amended to read:

13 455.04 (5) Applicants for licensure under ~~subs. (1) and (4)~~ this section may be
14 required to appear before the examining board in person prior to licensure to allow
15 the examining board to make such inquiry of them as to qualifications and other
16 matters as it considers proper.

17 **SECTION 40.** 455.045 (1) of the statutes is amended to read:

18 455.045 (1) ~~The examining board shall administer~~ In order to qualify for a
19 psychologist license under s. 455.04 (1) or (2), an applicant must have passed all of
20 the following examinations for psychologist licensure at least semiannually at times
21 and places determined by the examining board:

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

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

25 **SECTION 41.** 455.045 (2) of the statutes is repealed.

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1 **SECTION 42.** 455.045 (3) of the statutes is repealed and recreated to read:

2 455.045 (3) The examining board shall set passing scores for examinations
3 under sub. (1) (a) or (b). The examining board may adopt passing scores
4 recommended by test developers.

5 **SECTION 43.** 455.06 of the statutes is repealed and recreated to read:

6 **455.06 Renewals. (1)** (a) Except as provided in par. (b), the renewal dates for
7 licenses issued under this chapter or under s. 455.04 (4), 2017 stats., are specified
8 under s. 440.08 (2) (a), and the renewal fee for such licenses is determined by the
9 department under s. 440.03 (9) (a).

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

16 **(2)** An applicant for renewal of a license issued under this chapter or under s.
17 455.04 (4), 2017 stats., shall include with his or her application proof in the form
18 specified by the examining board that he or she has completed the hours of
19 continuing education required under s. 455.065.

20 **SECTION 44.** 455.065 (1) of the statutes is amended to read:

21 455.065 (1) Promulgate rules establishing the minimum number of hours of
22 continuing education, the topic areas that the continuing education must cover, the
23 criteria for the approval of continuing education programs and courses required for
24 renewal of a license, and the criteria for the approval of the sponsors and cosponsors
25 of those continuing education programs and courses. The examining board may

SENATE BILL 378**SECTION 44**

1 establish criteria for the substitution of hours of professional activities to meet
2 continuing education requirements. A licensee shall retain for a minimum period of
3 6 years and shall make available to the examining board or its agent upon request
4 proof that the licensee completed the required continuing education.

5 **SECTION 45.** 455.065 (3) of the statutes is repealed.

6 **SECTION 46.** 455.065 (4) of the statutes is amended to read:

7 455.065 (4) Approve continuing education programs and courses in accordance
8 with the criteria established under ~~subs. sub.~~ (1) and (3).

9 **SECTION 47.** 455.065 (5) of the statutes is amended to read:

10 455.065 (5) Promulgate rules establishing the criteria for the substitution of
11 uncompensated hours of professional assistance volunteered to the department of
12 health services for some or all hours of continuing education credits required under
13 ~~subs. sub.~~ (1) and (3). The eligible substitution hours shall involve professional
14 evaluation of community programs for the certification and recertification of
15 community mental health programs, as defined in s. 51.01 (3n), by the department
16 of health services.

17 **SECTION 48.** 455.065 (6) and (7) of the statutes are created to read:

18 455.065 (6) Grant a postponement of or waiver from the continuing education
19 requirements under this section based upon the grounds of prolonged illness or
20 disability or on other grounds constituting extreme hardship. The examining board
21 shall consider each application individually on its merits, and the examining board
22 may grant a postponement, partial waiver, or total waiver of the requirement as the
23 examining board deems appropriate.

24 (7) Grant an exemption from the continuing education requirements under
25 this section to a psychologist who certifies to the examining board that he or she has

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1 permanently retired from the practice of psychology. A psychologist who has been
2 granted an exemption under this subsection may not return to active practice
3 without submitting evidence satisfactory to the examining board of having
4 completed the required continuing education credits within the 2-year period prior
5 to the return to the practice of psychology.

6 **SECTION 49.** 455.07 of the statutes is repealed.

7 **SECTION 50.** 455.08 of the statutes is repealed.

8 **SECTION 51.** 455.09 (title) of the statutes is repealed and recreated to read:

9 **455.09 (title) Disciplinary proceedings and actions.**

10 **SECTION 52.** 455.09 (1) (intro.) of the statutes is amended to read:

11 455.09 (1) (intro.) Subject to the rules promulgated under s. 440.03 (1), the
12 examining board may deny an application for a license, or may ~~by order~~ suspend for
13 ~~a period not exceeding one year, limit, or~~ revoke ~~or impose probationary conditions~~
14 ~~upon~~ a license or reprimand a licensee if the applicant or licensee:

15 **SECTION 53.** 455.09 (1) (b) of the statutes is amended to read:

16 455.09 (1) (b) Subject to ss. 111.321, 111.322, and 111.34, engaged engages in
17 the practice of psychology or the private practice of school psychology while his or her
18 ability to practice was is impaired by alcohol or other drugs or while otherwise having
19 a mental or physical impairment. In this paragraph, "mental or physical
20 impairment" means a mental or physical impairment that would limit or eliminate
21 a licensee's ability to engage in the practice of psychology at the minimum level
22 required to competently discharge his or her tasks or duties and to protect the public
23 interest while so doing.

24 **SECTION 54.** 455.09 (1) (g) of the statutes is amended to read:

SENATE BILL 378**SECTION 54**

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

3 **SECTION 55.** 455.09 (1) (i) of the statutes is created to read:

4 455.09 (1) (i) Refuses to submit to an examination under s. 455.095, or is found
5 to be physically or mentally incapable of engaging in the practice of psychology under
6 s. 455.095.

7 **SECTION 56.** 455.09 (1) (j) of the statutes is created to read:

8 455.09 (1) (j) Practices outside the scope of his or her training, experience, or
9 education without appropriate supervision.

10 **SECTION 57.** 455.09 (3) of the statutes is amended to read:

11 455.09 (3) A revoked license may not be renewed. ~~One year from the date of~~
12 ~~revocation~~ An individual may, no sooner than one year after the date of revocation,
13 apply for reinstatement of a license under this chapter, ~~application may be made for~~
14 ~~reinstatement.~~ The examining board may accept or reject an application for
15 reinstatement. If reinstatement is granted under this subsection, the licensee shall
16 pay a reinstatement fee in an amount equal to the renewal fee. This subsection does
17 not apply to a license that is revoked under s. 440.12.

18 **SECTION 58.** 455.09 (4) of the statutes is created to read:

19 455.09 (4) The examining board may conduct an audit on any licensee under
20 investigation by the examining board for compliance with continuing education
21 requirements under s. 455.065.

22 **SECTION 59.** 455.095 of the statutes is created to read:

23 **455.095 Determination of mental or physical impairment.** (1) When
24 there is reasonable cause to believe that an individual licensed under this chapter
25 or applicant for a license under this chapter is physically or mentally incapable of

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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, the examining board may
3 require the licensee or applicant in question to submit to a psychological examination
4 by a psychologist designated by the examining board to determine psychological
5 functioning to practice or a physical examination by a physician designated by the
6 examining board to determine physical functioning to practice.

7 (2) The examining board shall consider the findings and conclusions of an
8 examination under sub. (1) and any other evidence or material submitted to the
9 examining board by the licensee or applicant in question or any other individual and
10 shall determine if the licensee or applicant is physically or mentally incapable of
11 engaging in the practice of psychology with reasonable skill such that the applicant
12 or licensee may endanger the safety of patients or clients.

13 **SECTION 60.** 455.10 of the statutes is repealed.

14 **SECTION 61.** 905.04 (1) (e) of the statutes is amended to read:

15 905.04 (1) (e) "Psychologist" means a licensed psychologist, as that term is
16 defined in s. 455.01 (4) licensed under ch. 455, or a person reasonably believed by the
17 patient to be a psychologist.

18 **SECTION 62. Nonstatutory provisions.**

19 (1) EMERGENCY RULE AUTHORITY. Using the procedure under s. 227.24, the
20 psychology examining board may promulgate rules under ch. 455 that are necessary
21 to implement the changes in this act. Notwithstanding s. 227.24 (1) (a) and (3), the
22 board is not required to provide evidence that promulgating a rule under this
23 subsection as an emergency rule is necessary for the preservation of the public peace,
24 health, safety, or welfare and is not required to provide a finding of emergency for a
25 rule promulgated under this subsection. Notwithstanding s. 227.24 (1) (c) and (2),

SENATE BILL 378**SECTION 62**

1 the effective period of a rule promulgated under this subsection is for 2 years after
2 its promulgation, or until permanent rules take effect, whichever is sooner, and the
3 effective period may not be further extended under s. 227.24 (2).

4 **SECTION 63. Effective dates.** This act takes effect on the first day of the 3rd
5 month beginning after publication, except as follows:

6 (1) SECTION 62 (1) of this act takes effect on the day after publication.

7 (END)



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4167/1
MED:amn

2019 BILL

1 **AN ACT** *to repeal* 455.07; *to amend* 51.30 (1) (b), 440.08 (2) (a) (intro.), 455.01
2 (4), 455.02 (3m) and 455.04 (5); *to repeal and recreate* 455.06; and *to create*
3 455.04 (2) of the statutes; **relating to:** an interim psychologist license.

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

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:

4 **SECTION 1.** 51.30 (1) (b) of the statutes is amended to read:
5 51.30 (1) (b) "Treatment records" include the registration and all other records
6 that are created in the course of providing services to individuals for mental illness,

BILL**SECTION 1**

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

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

10 440.08 (2) (a) (intro.) Except as provided in par. (b) and in ss. 440.51, 442.04,
11 444.03, 444.11, 447.04 (2) (c) 2., 449.17 (1m) (d), 449.18 (2) (e), 455.06 (1) (b), 463.10,
12 463.12, and 463.25 and subch. II of ch. 448, the renewal dates for credentials are as
13 follows:

14 **SECTION 3.** 455.01 (4) of the statutes is amended to read:

15 455.01 (4) “Licensed psychologist” means a person holding a valid license
16 under s. 455.04 (1) or (2).

17 **SECTION 4.** 455.02 (3m) of the statutes is amended to read:

18 455.02 (3m) USE OF TITLES. Except as provided in s. 257.03, only an individual
19 licensed under s. 455.04 (1) or (2) may use the title “psychologist” or any similar title
20 or state or imply that he or she is licensed to practice psychology, and only an
21 individual licensed under s. 455.04 (4) may use the title “private practice school
22 psychologist” or any similar title or state or imply that he or she is licensed to engage
23 in the private practice of school psychology. Except as provided in s. 257.03, only an
24 individual licensed under s. 455.04 (1), (2), or (4) may represent himself or herself to

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1 the public by any description of services incorporating the word “psychological” or
2 “psychology”.

3 **SECTION 5.** 455.04 (2) of the statutes is created to read:

4 455.04 (2) The examining board shall grant an interim psychologist license to
5 an individual who submits an application for the license, pays the fee specified under
6 s. 440.05 (6), and satisfies the requirements for a license under sub. (1) (a) to (f), other
7 than the requirement under sub. (1) (d). An individual licensed under this
8 subsection may provide psychological services only under the supervision of
9 qualified supervisors, as determined by the examining board.

10 **SECTION 6.** 455.04 (5) of the statutes is amended to read:

11 455.04 (5) Applicants for licensure under ~~subs. (1) and (4)~~ this section may be
12 required to appear before the examining board in person prior to licensure to allow
13 the examining board to make such inquiry of them as to qualifications and other
14 matters as it considers proper.

15 **SECTION 7.** 455.06 of the statutes is repealed and recreated to read:

16 **455.06 Renewals.** (1) (a) Except as provided in par. (b), the renewal dates for
17 licenses issued under this chapter are specified under s. 440.08 (2) (a), and the
18 renewal fee for such licenses is determined by the department under s. 440.03 (9) (a).

19 (b) A license issued under s. 455.04 (2) is valid until the individual obtains a
20 license under s. 455.04 (1), subject to a maximum term of 2 years, and may not be
21 renewed, except that the examining board may promulgate rules specifying
22 circumstances in which the examining board, in cases of hardship, may allow an
23 individual to renew a license issued under s. 455.04 (2). Notwithstanding sub. (2),
24 an individual holding a license issued under s. 455.04 (2) is not required to complete
25 continuing education.

