

Regular Session, 2014

SENATE BILL NO. 128

BY SENATOR MARTINY

PSYCHOLOGISTS. Provides for the licensure of specialist in school psychology by the State Board of Examiners of Psychologists. (8/1/14) (2/3-CA7s2.1)

1 AN ACT
2 To amend and reenact R.S. 37:2352(4), (5), (6) and (7), 2354(B), (C) and (D), 2355(B),
3 2357, the introductory paragraph of 2359(B), 2359(E) and (G), 2363(A), (B), (C)(3),
4 (4), and (5), and (D) and to enact R.S. 37:2352(8), (9), and (10), 2356.2, and
5 2359(B)(15), relative to the State Board of Examiners of Psychologists; to provide
6 relative to powers and duties of the board; to provide for definitions; to provide for
7 the licensure of specialists in school psychology; to provide for the practice of a
8 licensed specialist in school psychology; to provide for licensure and licensure
9 renewal fees; to provide for scope of practice of specialists in school psychology; to
10 provide for procedures, terms, and conditions; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 37:2352(4), (5), (6) and (7), 2354(B), (C) and (D), 2355(B), 2357,
13 the introductory paragraph of 2359(B), 2359(E) and (G), 2363(A), (B), (C)(3), (4), and (5),
14 and (D) are hereby amended and reenacted and R.S. 37:2352(8), (9), and (10), 2356.2, and
15 2359(B)(15) are hereby enacted to read as follows:

16 §2352. Definition of terms

17 As used in this Chapter the following terms mean:

1 * * *

2 (4) "Licensed specialist in school psychology" means any person licensed
3 as a specialist in school psychology who applies his knowledge of both
4 psychology and education during consultation and collaboration with others
5 and engages in specific services for students, such as direct and indirect
6 interventions that focus on academic skills, learning, socialization, and mental
7 health.

8 (5) "Persons" includes an individual, firm, partnership, association, or
9 corporation.

10 (6) "Practice of licensed specialist in school psychology" is defined as the
11 application of psychological principles, methods, and procedures to help
12 children and youth succeed academically, socially, behaviorally, and
13 emotionally. Licensed specialists in school psychology collaborate with
14 educators, parents, and other professionals to create safe, healthy, and
15 supportive learning environments that strengthen the connection between home,
16 school, and the community for all students. They apply their knowledge of both
17 psychology and education during consultation and collaboration with others
18 and conduct effective decision making using a foundation of assessment and
19 data collection. Licensed specialists in school psychology provide services to
20 schools and families that enhance the competence and well-being of children,
21 including promotion of effective and safe learning environments, prevention of
22 academic and behavior problems, response to crises, and improvement of the
23 collaboration between schools and families. The key foundations for all services
24 provided by licensed specialists in school psychology are understanding of
25 diversity in development and learning, research and program evaluation, and
26 legal, ethical, and professional practices. The types of evaluations performed
27 by a licensed specialist in school psychology will be those that are germane to
28 the current state educational bulletins, including but not limited to Louisiana
29 Bulletins 1508 and 1706. Nothing in this Chapter shall be construed to permit

1 **a licensed specialist in school psychology to diagnose mental disorders as**
2 **defined by the Diagnostic and Statistical Manual of Mental Disorders or**
3 **International Classification of Disease diagnosis.**

4 (5) (7) "Practice of psychology" is defined as the observation, description,
5 evaluation, interpretation, and modification of human behavior, by the application
6 of psychological principles, methods, and procedures, for the purpose of eliminating
7 symptomatic, maladaptive, or undesired behavior, and of improving interpersonal
8 relationships, work and life adjustment, personal effectiveness, behavioral health,
9 and mental health. The practice of psychology includes but is not limited to
10 psychological testing and evaluation or assessment of personal characteristics such
11 as intelligence, personality, abilities, interests, aptitudes, and neuropsychological
12 functioning; counseling, psychoanalysis, psychotherapy, hypnosis, stress
13 management, biofeedback, behavior analysis and therapy; diagnosis and treatment
14 of mental and emotional disorder or disability, alcoholism and substance abuse, and
15 of the psychological aspects of physical illness, accident, injury, or disability; psycho
16 educational evaluation, therapy, remediation, and consultation. Psychological
17 services may be rendered to individuals, families, groups, institutions, organizations,
18 and the public. The practice of psychology shall be construed within the meaning of
19 this definition without regard to whether payment is received for services rendered.

20 (6) (8) "Psychologist" means any person licensed as a psychologist under
21 this Chapter. A person represents himself to be a psychologist by using any title or
22 description of services incorporating the words "psychology", "psychological", or
23 "psychologist", or by using any other terms which imply that he is qualified to
24 practice psychology or that he possesses expert qualification in any area of
25 psychology or if that person offers to the public or renders to individuals or to groups
26 of individuals services defined as the practice of psychology in this Chapter.

27 (7) (9) "School" or "college" means any regional accredited university or
28 other institution of higher learning offering a full-time doctoral course of study in
29 psychology that is approved by the board.

1 **(10) "School system" means any institution or facility which provides**
 2 **for education of children in grades one or above, which may include**
 3 **kindergarten or prekindergarten attached thereto.**

4 * * *

5 §2354. Fees

6 * * *

7 B.**(1)** The board shall charge an application fee to all applicants for licensure.
 8 The board may also charge a written examination fee and an oral examination fee.
 9 A hearing fee may also be charged at the discretion of the board. The board shall
 10 establish a reasonable fee schedule in conformity with the provisions of the
 11 Administrative Procedure Act, R.S. 49:950 et seq.

12 **(2) The board shall charge an application fee to any person applying for**
 13 **licensure as a specialist in school psychology that shall not exceed two hundred**
 14 **dollars. The board shall adopt rules in accordance with the Administrative**
 15 **Procedure Act to implement the provisions of this Paragraph.**

16 C.**(1)** Every licensed psychologist in this state shall annually pay to the board
 17 during the month of July of each year, beginning in the year immediately subsequent
 18 to his initial license, a renewal fee to be determined annually by the board. The
 19 license of any psychologist who shall fail to have his license renewed during the
 20 month of July in each and every year shall lapse; the failure to renew ~~said~~ **the**
 21 license, however, shall not deprive said psychologist of the right of renewal
 22 thereafter. Such lapsed license may be renewed, within a period of two years after
 23 such lapse, upon payment of a reinstatement fee equal to the current application fee
 24 and the current renewal fee.

25 **(2)(a) Every licensed specialist in school psychology in this state shall**
 26 **annually pay to the board during the month of July of each year, beginning in**
 27 **the year immediately subsequent to his initial license, a renewal fee that shall**
 28 **not exceed one hundred dollars.**

29 **(b) Failure to renew the license as provided in Subparagraph (a) of this**

1 (e) Has completed a school specialist degree from a National Association
2 of School Psychologists approved program or equivalent.

3 (f) Has completed a one thousand two hundred hour, nine month
4 internship under the supervision of a certified school psychologist in a school
5 setting or by a licensed psychologist in a community setting. Of the one
6 thousand two hundred hours, six hundred hours shall be completed in a school
7 setting.

8 (g) Has completed three years of supervised experience as a certified
9 school psychologist within the public school system.

10 (h) Has passed the Nationally Certified School Psychologist examination.

11 (i) Has demonstrated professional knowledge of laws and rules
12 regarding the practice of psychology in Louisiana.

13 (2) If the board reasonably believes that a person applying for a license
14 or for a renewal of a license is not physically and mentally competent to render
15 psychological services with reasonable skill and safety to his patients, or is
16 afflicted with a disease or condition, either physical or mental, that would
17 impair his competency to render psychological services, the board may request
18 that the person submit to a physical examination by a medical doctor approved
19 by the board or a mental health examination by a psychologist or psychiatrist
20 approved by the board. If the person refuses to submit to the examination, the
21 board, after contradictory hearing and upon finding reasonable cause, may
22 issue an order requiring the person to submit to the physical or mental health
23 examination. A person who is ordered to submit to a physical or mental health
24 examination shall not be eligible for licensure or renewal of license prior to such
25 examination. Proceedings under this Paragraph shall be conducted in
26 compliance with the Administrative Procedure Act.

27 B.(1)(a) A licensed specialist in school psychology, who is engaged in
28 such practice, may practice independently as a contractor of a public, private,
29 or charter school.

1 **(b) A licensed specialist in school psychology who is engaged in such**
2 **practice and working outside of the school system shall be required to do so**
3 **under the clinical supervision of a licensed psychologist. The licensed**
4 **psychologist shall be administratively, clinically, and legally responsible for all**
5 **professional activities of the licensed specialist in school psychology, and the**
6 **licensed psychologist shall be required to sign any final reports prepared by the**
7 **licensed specialist in school psychology.**

8 **(2)(a) Nothing in this Section shall be construed to limit in any way the**
9 **duties and responsibilities of a school psychologist certified by the state**
10 **Department of Education.**

11 **(b) Nothing in this Section shall prohibit a licensed psychologist from**
12 **providing services within a school provided such services are within the**
13 **psychologist's area of competence.**

14 §2357. Renewal of license

15 A.**(1)** Persons licensed as psychologists under the provisions of this Chapter
16 shall be eligible for renewal of licensure without regard to any subsequent changes
17 in the requirements for licensure upon payment of the fees established under R.S.
18 37:2354 and compliance with the requirement established pursuant to ~~Subsection B~~
19 **Paragraph (2) of this Subsection.**

20 B- **(2)** The board shall establish continuing education requirements to be
21 fulfilled prior to the renewal of a license. Failure to fulfill these requirements shall
22 cause the license to lapse. For a period of two years from the date of lapse of the
23 license, the license may be renewed upon proof of fulfilling all continuing education
24 requirements applicable through the date of reinstatement and upon payment of all
25 fees due under R.S. 37:2354.

26 **B.(1) Persons licensed as a specialist in school psychology under the**
27 **provisions of this Chapter shall be eligible for renewal of licensure without**
28 **regard to any subsequent changes in the requirements for licensure upon**
29 **payment of fees required by this Chapter and compliance with the provisions**

1 **of this Subsection.**

2 **(2)(a) The board shall establish continuing education requirements to**
3 **be fulfilled by the licensed specialist in school psychology prior to license**
4 **renewal.**

5 **(b) Failure to fulfill the continuing education requirements shall cause**
6 **the license to lapse. For a period of two years from the date of lapse of the**
7 **license, the license may be renewed upon proof of fulfilling all continuing**
8 **education requirements applicable through the date of reinstatement and upon**
9 **payment of all fees required by this Chapter.**

10 **(c) The board may adopt rules in accordance with the Administrative**
11 **Procedure Act to implement the provisions of this Chapter.**

12 * * *

13 §2359. Denial, revocation, or suspension of license; **psychologist; specialist in**
14 **school psychology**

15 * * *

16 B. The board shall have the power and duty to suspend, place on probation,
17 require remediation for a specified time, revoke any license to practice psychology
18 **or license to practice as a specialist in school psychology,** or take any other action
19 specified in the rules and regulations whenever the board, by affirmative vote of at
20 least four of its five members, shall find by a preponderance of the evidence that a
21 psychologist **or specialist in school psychology** has engaged in any of the following
22 acts or offenses:

23 * * *

24 **(15) Failure to comply with mandatory reporter laws.**

25 * * *

26 E. Suspension by the board of the license of a psychologist **or a specialist in**
27 **school psychology** shall be for a period not exceeding two years.

28 * * *

29 G. The board shall notify all licensed psychologists **and licensed specialists**

1 in school psychology of any disciplinary action taken against a licensed psychologist
2 and a licensed specialist in school psychology.

3 * * *

4 §2363. Privileged communications

5 A. In judicial proceedings, whether civil, criminal, or juvenile, legislative and
6 administrative proceedings, and proceedings preliminary and ancillary thereto, a
7 patient or client, or his legal representative, may refuse to disclose or prevent the
8 disclosure of confidential information, including information contained in
9 administrative records, communicated to a psychologist or a licensed specialist in
10 school psychology licensed under this Chapter, or persons reasonably believed by
11 the patient or client to be so licensed, or to their employees or other persons under
12 their supervision, for the purpose of diagnosis, evaluation, or treatment of any mental
13 or emotional condition or disorder.

14 B. In the absence of evidence to the contrary, the psychologist or licensed
15 specialist in school psychology is presumed to be authorized to claim the privilege
16 on behalf of the patient or client.

17 C. This privilege may not be claimed by or on behalf of the patient or client
18 in the following circumstances:

19 * * *

20 (3) Where such information is necessary for the defense of the psychologist
21 or licensed specialist in school psychology in a malpractice action brought by the
22 patient or client.

23 (4) Where an immediate threat of physical violence against a clearly
24 identified victim or victims is disclosed to the psychologist or licensed specialist in
25 school psychology.

26 (5) In the context of civil commitment proceedings, where an immediate
27 threat of self-inflicted damage is disclosed to the psychologist or licensed specialist
28 in school psychology.

29 * * *

- 1 D. Notwithstanding the provisions of this Section, testimonial privileges,
 2 exceptions, and waiver with respect to communications between psychologist or
 3 **licensed specialist in school psychology** and patient are governed by the Louisiana
 4 Code of Evidence.

The original instrument was prepared by Michelle Ducharme. The following digest, which does not constitute a part of the legislative instrument, was prepared by Mary Dozier O'Brien.

DIGEST

Martiny (SB 128)

Present law provides for powers and duties of the State Board of Examiners of Psychologists (board).

Present law provides for definitions.

Proposed law retains present law and adds the following definitions:

- (1) "Licensed specialist in school psychology" means any person licensed as a specialist in school psychology who applies their knowledge of both psychology and education during consultation and collaboration with others and engages in specific services for students, such as direct and indirect interventions that focus on academic skills, learning, socialization, and mental health.
- (2) "Practice of licensed specialist in school psychology" is defined as the application of psychological principles, methods, and procedures to help children and youth succeed academically, socially, behaviorally, and emotionally. Licensed specialists in school psychology collaborate with educators, parents, and other professionals to create safe, healthy, and supportive learning environments that strengthen the connection between home, school, and the community for all students. They apply their knowledge of both psychology and education during consultation and collaboration with others and conduct effective decision making using a foundation of assessment and data collection. Licensed specialists in school psychology provide services to schools and families that enhance the competence and well-being of children, including promotion of effective and safe learning environments, prevention of academic and behavior problems, response to crises, and improvement of the collaboration between schools and families. The key foundations for all services provided by licensed specialists in school psychology are understanding of diversity in development and learning, research and program evaluation, and legal, ethical, and professional practices. The types of evaluations performed by licensed specialists in school psychology will be those that are germane to the current state educational bulletins. Nothing in present law and proposed law shall be construed to permit a licensed specialist in school psychology to diagnose mental disorders as defined by the Diagnostic and Statical Manual of Mental Disorders or International Classification of Disease diagnosis.
- (3) "School system" means any institution or facility which provides for education of children in grades one or above, which may include kindergarten or prekindergarten attached thereto.

Present law authorizes the board to charge an application fee to all applicants for licensure and a renewal fee to renew such license.

Proposed law provides that the board shall charge an application fee to any person applying for licensure as a specialist in school psychology in an amount not to exceed \$200 and authorizes the board to adopt rules in accordance with the Administrative Procedure Act (APA) to implement proposed law.

Proposed law provides that every licensed specialist in school psychology in this state shall annually pay to the board during the month of July of each year, beginning in the year immediately subsequent to his initial license, a renewal fee in an amount not to exceed \$100.

Proposed law provides that the failure to renew the license shall cause the license to lapse. For a period of two years from the date of lapse of the license, the license may be renewed upon payment of a reinstatement fee that shall not exceed \$300.

Proposed law authorizes the board to adopt rules in accordance with the APA to implement the provisions of proposed law.

Present law provides that each year the board shall send a renewal notice to all psychologists licensed by the board.

Proposed law retains present law and provides that each year the board shall send a renewal notice to all specialists in school psychology licensed by the board.

Present law requires the board to publish or cause to be published annually a list of psychologists licensed by the board.

Proposed law retains present law and requires the board to publish or cause to be published annually a list of specialists in school psychology licensed by the board.

Proposed law provides that the board shall issue a license as a specialist in school psychology to any person who files an application upon a form and in such a manner as the board prescribes, accompanied by an application fee, and who furnishes evidence to the board that, except as otherwise required by law, the person:

- (1) Is at least 21 years of age.
- (2) Is of good moral character.
- (3) Is a citizen of the United States or has declared his intention to become a citizen.
- (4) Is not in violation of certain provisions of law and the rules and regulations adopted by the board.
- (5) Has completed a school specialist degree from a National Association of School Psychologists approved program or equivalent.
- (6) Has completed a 1,200 hour, nine month internship under the supervision of a certified school psychologist in a school setting or by a licensed psychologist in a community setting. Of the 1,200 hours, 600 hours shall be completed in a school setting.
- (7) Has completed three years of supervised experience as a certified school psychologist within the public school system.
- (8) Has passed the Nationally Certified School Psychologist examination.
- (9) Has demonstrated professional knowledge of laws and rules regarding the practice of psychology in La.

Proposed law provides that if the board reasonably believes that a person applying for a license or for a renewal of a license is not physically and mentally competent to render psychological services with reasonable skill and safety to his patients, or is afflicted with a disease or condition, either physical or mental, that would impair his competency to render psychological services, the board may request that the person submit to a physical examination by a medical doctor approved by the board or mental health examination by a psychologist or psychiatrist approved by the board. If the person refuses to submit to the examination, the board, after contradictory hearing and upon finding reasonable cause, may issue an order requiring the person to submit to the physical or mental health examination. A person who is ordered to submit to such examination shall not be eligible for licensure or renewal of license prior to such examination. The proceedings provided in proposed law shall be conducted in compliance with the APA.

Proposed law provides that a licensed specialist in school psychology, who is engaged in such practice, may practice independently as a contractor of a public, private, or charter school.

Proposed law provides that a licensed specialist in school psychology who is engaged in such practice and working outside of the school system shall be required to do so under the clinical supervision of a licensed psychologist. The licensed psychologist shall be administratively, clinically, and legally responsible for all professional activities of the licensed specialist in school psychology, and the licensed psychologist shall be required to sign any final reports prepared by the licensed specialist in school psychology.

Proposed law provides that nothing in proposed law shall be construed to limit in any way the duties and responsibilities of a school psychologist certified by the state Dept. of Education.

Proposed law provides that nothing in proposed law shall prohibit a licensed psychologist from providing services within a school provided such services are within the psychologist's area of competence.

Present law provides for the renewal of a psychologist's license.

Proposed law retains present law and provides that persons licensed as a specialist in school psychology shall be eligible for renewal of licensure without regard to any subsequent changes in the requirements for licensure upon payment of fees required by law and compliance of certain provisions of present law.

Proposed law requires the board to establish continuing education requirements to be fulfilled by the licensed specialist in school psychology prior to license renewal.

Proposed law provides that failure to fulfill the continuing education requirements shall cause the license to lapse and provides that for a period of two years from the date of lapse of the license, the license may be renewed upon proof of fulfilling all continuing education requirements applicable through the date of reinstatement and upon payment of all required fees.

Proposed law authorizes the board to adopt rules in accordance with the APA to implement the provisions of proposed law.

Proposed law provides for the denial, revocation, or suspension of a specialist in school psychology's license.

Present law provides for acts that may be considered grounds for denial, revocation, or suspension of a license as follows:

- (1) Fraud or deception in applying for or procuring a license to practice psychology.

- (2) Practicing psychology in such a manner as to endanger the welfare of clients or patients.
- (3) Conviction of a felony.
- (4) Conviction of any crime or offense which reflects the inability of the practitioner to practice psychology with due regard for the health and safety of clients or patients.
- (5) Use of repeated untruthful, deceptive, or improbable statements concerning the licensee's qualifications or the effects or results of proposed treatment, including functioning outside of one's professional competence established by education, training, and experience.
- (6) Aiding or abetting the practice of psychology by any person not licensed by the board and in violation of certain laws.
- (7) Conviction of fraud in filing Medicare or Medicaid claims or in filing claims to any third party payor.
- (8) Exercising undue influence in such a manner as to exploit the client or patient for financial or other personal advantage to the practitioner or a third party.
- (9) The suspension or revocation by another state of a license to practice psychology.
- (10) Refusal to appear before the board after having been ordered to do so in writing by a duly authorized agent of the board.
- (11) Making any fraudulent or untrue statement to the board.
- (12) Violation of the code of ethics adopted in the rules and regulations of the board or other immoral, unprofessional, or dishonorable conduct as defined in the rules and regulations of the board.
- (13) Inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition.
- (14) Violation of certain provisions of law or of the rules and regulations promulgated by the board thereunder.

Proposed law retains present law and adds to the list the failure to comply with mandatory reporter laws.

Proposed law provides that suspension of license of a specialist in school psychology shall be for a period not exceeding two years.

Proposed law provides that the board shall notify all licensed psychologists and licensed specialist in school psychology of any disciplinary action taken against a licensed specialist in school psychology.

Present law provides for privileged communications between a psychologist and a patient.

Proposed law retains present law and provides for privileged communication between a licensed specialist in school psychology and a patient.

Effective August 1, 2014.

(Amends R.S. 37:2352(4), (5), (6) and (7), 2354(B), (C) and (D), 2355(B), 2357,

2359(B)(intro para), (E) and (G), 2363(A), (B), (C)(3), (4), and (5), and (D); adds R.S. 37:2352(8), (9), and (10), 2356.2, and 2359(B)(15))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Prohibits a licensed specialist in school psychology to diagnose mental disorders as defined by the Diagnostic and Statistical Manual of Mental Disorders or International Classification of Disease diagnosis.
2. Provides that a licensed psychologist shall be administratively, clinically, and legally responsible for all professional activities of the licensed specialist in school psychology.
3. Makes technical changes.

Senate Floor Amendments to engrossed bill

1. Technical amendments from the Legislative Bureau.