

H. B.

(By Delegates/Senators)

[Committee on Government Organization]

(January, 2012)

A BILL to repeal §30217a, §30217b, §30217c, §30217d, §30217e and §30218a, of the Code of West Virginia, 1931, as amended; to amend and reenact §30211, §30212, §30213, §30214, §30215, §30216, §30217, §30218, §30219, §302110, §302111, §302112, §302113, §302114 and §302115, of said code; and to amend said code by adding thereto new sections, designated §30-21-8a, §30-21-9a, §30-21-10a, §302116, §302117, §302118, §302119, §302120, §302121, all relating to the practice of psychology; prohibiting the practice of psychology without a license; providing other applicable sections; defining terms; continuing and renaming board; providing for board composition, appointments, qualifications, terms of office, filling of vacancies and holding meetings; providing for compensation and reimbursement for board members; setting forth the powers and duties of the board; clarifying rulemaking authority; continuing a special revenue account; establishing license requirements; setting forth scopes of practices; providing for licensure for persons licensed in another state; establishing licensure renewal requirements; establishing delinquent, expired and inactive license requirements; providing temporary permit requirements; requiring license to be displayed; providing for privileged communications and exceptions; providing the board may issue notices to cease and desist; providing that circuit courts may issue injunctions; setting forth grounds for disciplinary actions; allowing for specific disciplinary actions; providing procedures for the investigation of complaints; providing for judicial review and appeals of decisions; setting forth hearing and notice requirements; providing for civil causes of action; and providing for criminal penalties.

Be it enacted by the Legislature of West Virginia:

That §30217a, §30217b, §30217c, §30217d, §30217e and §30218a, of the Code of West Virginia, 1931, as amended, be repealed; that §30211, §30212, §30213, §30214, §30215, §30216, §30217, §30218, §30219, §302110, §302111,

§302112, §302113, §302114, §302115, of said code be amended and reenacted; and that said code be amended by adding thereto ten new sections, designated §302116, §302117, §302118, §302119, §302120, §302121, §302122, §302123 and §302124; all to read as follows:

ARTICLE 21. PSYCHOLOGISTS.

§30211. Unlawful acts.

(a) It is unlawful for any person to practice or offer to practice psychology or school psychology in this state without a license or permit issued under the provisions of this article, or to advertise or use any title or description tending to convey the impression that the person is a psychologist unless the person has been licensed or permitted under the provisions of this article, and the license or permit has not expired, been suspended or revoked.

(b) No business entity, except through a licensee, may render any service or engage in any activity that if rendered or engaged in by an individual, would constitute the practices licensed under the provisions of this article.

(c) Nothing in this article shall be construed as permitting the administering or prescribing of drugs or as infringing upon the practice of medicine and surgery.

(d) A person who is not licensed under this article may not characterize himself or herself as a "Psychologist" or use other terms implying the same. Unlicensed professionals who teach, conduct research, or perform other academic duties may use the title "academic psychologist", "research psychologist", or "experimental psychologist" in conjunction with their duties if they, at a minimum, meet the educational requirements of this article and are employed by institutions of higher learning to teach and conduct research in the discipline of psychology. (e) Nothing in this article shall be construed

to prevent the teaching of psychology, or the conduct of psychological research, provided that such teaching or research does not involve the delivery or supervision of psychological services, without regard to the source or extent of payment for services rendered. Nothing in this article shall prevent the provision of expert testimony by such an individual provided that the appropriate clarifying title is used and the individual specifically discloses to the involved parties, including the court or adjudicative body, that he or she is not a "licensed psychologist".

(f) Nothing in this article shall be construed to limit the authority of the West Virginia Department of Education to credential individuals to provide psychoeducational services in the public schools as long as individuals so credentialed are limited to practice within settings under the authority and purview of the state education agency. Such individuals may use the title "school psychologist" but must be employees of public schools and not independent contractors providing psychological services to educational settings.

§30212. General provisions.

The practices licensed under the provisions of this article and the West Virginia Board of Psychology are subject to the provisions of article one of this chapter, the provisions of this article, and any rules promulgated hereunder.

§30213. Definitions.

As used in this article:

(1) "Applicant" means a person making application for a license or a temporary permit under the provisions of this article.

(2) "Board" means the West Virginia Board of Psychology.

(3) "Business entity" means any firm, partnership, association, company,

corporation, limited partnership, limited liability company or other entity providing psychological services.

(4) "Client/Patient" means a direct recipient of psychological services within the context of a professional relationship including a child, adolescent, adult couple, family group, organization, community or other populations or other entities receiving psychological services. In some circumstances (e.g. an evaluation that is courtordered, requested by an attorney, an agency, or other administrative body), the client or patient may be the individual or entity requesting the psychological service and not necessarily the recipient of those services. Provided that in the case of individuals with legal guardians, including minors and legally incompetent adults, the legal guardian shall be the client for decisionmaking purposes, except the individual receiving services shall be the client or patient for:

(A) Issues directly affecting the physical or emotional safety of the individual, such as sexual or other exploitative dual relationships, or

(B) Issues specifically reserved to the individuals, and agreed to by the guardian prior to rendering of services, such as confidential communication in a therapy relationship.

(5) "Certified Psychological Associate" means a person with a master's degree authorized to perform certain functions within the practice of psychology under supervision of a licensed psychologist when the conditions met under this act are satisfied.

(6) "Expanded Scope of Practice" means those specific areas of determined competence that are added to the Scope of Practice with Board approval, via Board defined procedure, after the individual has been duly licensed by the Board.

(7) "Licensed psychologist" means a person with a doctoral degree licensed to practice psychology in this or another jurisdiction. The title "psychologist" may not be used by professionals who are exempt from licensure under this act except as otherwise permitted in this Act.

(8) "Licensed psychological practitioner" means a person with a master's degree licensed to perform certain functions within the practice of psychology without supervision when the conditions met under this Act are satisfied.

(9) "Licensed school psychologist, Level I" means a person licensed by the Board to practice school psychology on school board property as a school board employee or contractee;

(10) "Licensed school psychologist, Level II independent practitioner" means a person licensed by the Board to provide school psychology services to an individual or the public on school board or nonschool board property, as a school board employee or contractee.

(11) "Licensee" means a person holding a license issued under the provisions of this article.

(12) "Permit" or "temporary permit" means a temporary permit issued under the provisions of this article.

(13) "Permittee" means any person holding a temporary permit issued pursuant to the provisions of this article.

(14) "Practice of psychology" means the observation, description, analysis, evaluation, interpretation, prediction, and modification of human behavior by the application of psychological principles, methods, and procedures, on a client or patient, regardless of whether payment is received for services rendered, for the purpose of, and includes, but is not limited to:

(A) Preventing, eliminating, evaluating, assessing or predicting symptomatic, maladaptive, or undesired behavior;

(B) Evaluating and assessing or facilitating the enhancement of individual, group or organizational effectiveness, including personal effectiveness, adaptive behavior, interpersonal relationships, work and life adjustment, health, and individual, group or organizational performance;

(C) Assisting in legal decisionmaking;

(D) Psychological testing, evaluation, or assessment of personal characteristics, such as intelligence, personality, cognitive, physical, or emotional abilities; skills; interests; aptitudes; and neuropsychological functioning;

(E) Psychoanalysis, counseling, psychotherapy, hypnosis, biofeedback, cognitive therapy, cognitive behavior therapy, behavior analysis, and behavior therapy;

(F) Diagnosis, treatment, and management of mental and emotional disorder or disability, substance use disorders, disorders of habit or conduct, as well as of the psychological aspects of physical illness, accident, injury, or disability;

(G) Psychoeducational evaluation, therapy, and remediation;

(H) Consultation with other psychologists, physicians, other healthcare professionals, clients, or patients regarding all available treatment options, including medication, with respect to provision of care for a specific client or patient;

(I) Provision of direct services to individuals or groups for the purpose of enhancing individual and thereby organizational effectiveness, using psychological principles, methods or procedures to assess and evaluate individuals on personal characteristics for individual development or behavior change or for making decisions about the individual, such as selection; and

(J) The supervision of any of the above.

(15) "Practice of school psychology" means the rendering or offering to render to an individual or to the public, regardless of whether payment is received for services rendered, school psychological services as defined herein, whether rendered to individuals, families, groups, systems, or organizations.

(16) "School Psychology Services" means the activities school psychologists may engage in to promote mental health and to facilitate the education of school age children, which include, but are not limited to, the following:

(A) Consultation, which includes collaboration with individuals and groups of school personnel, parents, families, and representatives of community agencies;

(B) Psychological and psychoeducational assessment, which includes the gathering, interpreting and communicating of information derived from the assessment process which relates to learning and behavior;

(C) Intervention, which includes individual and group counseling, behavioral intervention and crisis intervention;

(D) Education, which includes parent training, school inservice and community education;

(E) Facilitation, which includes assisting in developing useful communication between diverse groups of people separated by institutional, bureaucratic, educational, or other barriers;

(F) Research, which includes designing, reporting, and utilizing the results of research of a psychological nature;

(G) Program planning and evaluation, which includes program development, program implementation, program evaluation, and problem solving for organizational decision making;

(H) Supervision, which includes the supervision of student intern school psychologists, other school psychologists, and personnel contracted to provide either psychological or psychoeducational assessment data;

(I) Provided that for the purpose of this article, the term "practice of school psychology" shall not include the activities of clinical counseling, child, industrial, health, and other types of psychology which the board determines to be outside the scope of school psychology activities;

(17) "Psychology" means the science involving the principles, methods and procedures of understanding, predicting and influencing behavior; the principles pertaining to learning, perception, motivation, thinking, emotions, and interpersonal relationships; the methods and procedures of interviewing and counseling; the methods and procedures of psychotherapy, meaning the use of learning, conditioning methods, and emotional reactions, in a professional relationship, to assist a person or persons to modify feelings, attitudes, and behavior, which are intellectually, socially or emotionally maladjustive or ineffectual; the constructing, administering, and interpreting of tests of intelligence, special abilities, aptitudes, interests, attitudes, personality characteristics, emotions, and motivation; the psychological evaluation, prevention, and improvements of adjustment problems of individuals and groups; and the resolution of interpersonal and social conflicts.

(18) "School board" means a West Virginia County School Board, the West Virginia Department of Education, or a Regional Educational Service Agency.

(19) "School board employee" means a person who provides services for the school board and is reimbursed via a salary and benefits and who has met the educational requirements under the state law and regulations of the West Virginia Board of Education to be certified or otherwise empowered by the State Superintendent of Schools to provide school psychological services for school boards.

(20) "School board contractee" means a person who provides services for one or more school boards and is reimbursed on a per evaluation, per unit of service, or some other contract basis.

(21) "School psychologist" means a person who provides school psychological services to the public and in so doing claims to have the knowledge, training, expertise and ethical standards necessary to engage in such practice.

(22) "Scope of Practice" means the areas of professional competence in which the licensee may practice, as determined by the Board.

(23) "Supervised Work Experience" means professional experience in the licenserequired duties and activities defined in this article. Supervised Work Experience is supervised by a licensed psychologist who is Board-qualified in the scope being practiced.

(24) "Supervisee" means a person in the supervision track for permanent licensure who, having met all the board's educational requirements to be eligible for licensure, is in the process of completing the postgraduate degree supervised work experience requirement under the supervision of a licensed psychologist.

§30214. Board of Psychology.

(a) The Board of Examiners of Psychologists is continued. On July 1, 2012, West Virginia Board of Examiners of Psychologists is renamed the West Virginia Board of Psychology. (b) The board shall consist of the following seven members, who are appointed by the Governor with the advice and consent of the Senate:

(1) 4 licensed psychologists, at least 3 of whom shall hold a doctoral degree; 1 licensed psychological practitioner; and, 1 licensed school psychologist. Licensed psychologist members must have a valid license to prac-

tice psychology in West Virginia of at least 5 years duration at the time of his or her appointment and have adequate knowledge and experience in the practice of psychology as evidenced by at least five years of service in the practice of psychology as a licensed psychologist. Psychologist members are to have no history of suspended, revoked, or sanctioned license or reprimand by this or any jurisdictional Board.

(2) 2 citizen members.

(c) The term shall be for four years.

(d) Members of the Board must be a U.S. citizen and a resident of the State of West Virginia for at least 5 years immediately preceding his or her appointment.

(e) Each member must be free of conflict of interest, or the appearance of such conflict, with his or her duties as a member of the Board.

(f) Whenever possible, Board members shall reflect diversity in scope of practice and geographic representation of the state.

(g) A member may not serve more than two full terms, whether those terms are consecutive or not. For this purpose, a full term means that the member is appointed prior to December 31st of the year their term is scheduled to begin. A member may continue to serve until a successor has been appointed and has qualified.

(h) A vacancy on the board shall be filled by appointment by the Governor from nominees submitted by the West Virginia Psychological Association and other interested organizations and individuals for the unexpired term of the member whose office shall be vacant, and the appointment shall be made within sixty days of the vacancy. Fulfilling the unexpired term of any member shall not be considered a full term for purposes of calculating term limitations as set forth herein.

(i) The Governor may remove any member from the board for neglect of duty, incompetency, or official misconduct.

(j) Any member of the board immediately and automatically forfeits his or her membership if his or her license to practice is suspended or revoked by the board, is convicted of a felony under the laws of any jurisdiction, or becomes a nonresident of this state.

(k) The board annually shall elect from its membership a president and secretary, who shall serve at the will and pleasure of the board.

(l) Each member of the board is entitled to compensation and expense reimbursement in accordance with article one of this chapter.

(m) A majority of the members of the board constitutes a quorum.

(n) The board shall hold at least two meetings annually. Other meetings shall be held at the call of the president or upon the written request of four members, to accommodate the expeditious review of licensure candidates, at the time and place as designated in the call or request.

(o) Prior to commencing his or her duties as a member of the board, each member shall take and subscribe to the oath required by section five, article four of the Constitution of this state.

§30215. Powers and duties of the board.

(a) The board has all the powers and duties set forth in this article, by rule, in article one of this chapter and elsewhere in law.

(b) The board shall:

(1) Hold meetings;

(2) Establish requirements for licenses and permits;

(3) Establish procedures for submitting, approving and rejecting appli-

cations for licenses and permits;

(4) Determine the qualifications of applicants for licenses and permits;

(5) Examine applicants and determine their eligibility for a license or permit to engage in the practice of psychology or school psychology;

(6) Prepare, conduct and grade, or adopt, apt and proper written and oral examinations of applicants for a license and determine the satisfactory pass point thereon;

(7) Promulgate reasonable rules and regulations for implementing the provisions of this article and the powers and duties conferred upon the board, including, but not limited to, reasonable rules and regulations establishing standards to insure the proper supervision of all persons working under the direct and regular supervision of a licensee under the provisions of this article;

(8) Maintain records of the examinations the board or a third party administrators, including the number of persons taking the examinations and the pass and fail rate;

(9) Maintain an office, and hire, discharge, establish the job requirements, and fix the compensation of fulltime, parttime or contracted professional, clerical or other personnel, which may include an executive director, investigators, and contracted employees, necessary to enforce this article;

(10) Investigate alleged violations of this article, legislative rules, orders, and final decisions of the board;

(11) Conduct disciplinary hearings of persons regulated by the board;

(12) Determine and take disciplinary action and issue orders;

(13) Institute appropriate legal action for the enforcement of this ar-

ticle;

(14) Maintain an accurate registry of names and addresses of all persons regulated by the board;

(15) Keep accurate and complete records of its proceedings, and certify the same as may be necessary and appropriate;

(16) Establish the continuing education requirements for all persons regulated by the board;

(17) Issue, renew, combine, deny, suspend, place on probation, revoke or reinstate licenses and permits;

(18) Establish a fee schedule;

(19) Propose rules in accordance with article three, chapter twentyninea of this code to implement this article; and

(20) Take all other actions necessary and proper to implement this article.

(c) The board may:

(1) Contract with third parties to administer the examinations required under this article;

(2) Sue and be sued in its official name as an agency of this state; and

(3) Confer with the Attorney General or his or her assistant in connection with legal matters and questions.

§30216. Rulemaking.

(a) The board shall propose rules for legislative approval, in accordance with article three, chapter twentyninea of this code, to implement this article, including:

- (1) Additional standards and requirements for licenses and permits;
- (2) Requirements for third parties to prepare and/or administer examinations and reexaminations;
- (3) Educational and experience requirements;
- (4) Standards for approval of courses and curriculum;
- (5) Procedures for the issuance and renewal of licenses and permits;
- (6) A fee schedule;
- (7) Continuing education requirements;
- (8) The procedures for denying, suspending, revoking, reinstating, or limiting the practice of licensees and permittees;
- (9) Requirements for inactive or revoked licenses and permits; and
- (10) Any other rules necessary to implement this article.

(b) All of the board's rules in effect on, _____ and not in conflict with these provisions shall remain in effect until they are amended or rescinded, and references to former enactments of this article are interpreted to be consistent with this article.

§30217. Fees; special revenue account; administrative fines.

(a) All fees and other moneys, except administrative fines, received by the board shall be deposited in a separate special revenue fund in the State Treasury designated, "the Board of Examiners of Psychologists Fund", which is continued and renamed "the Board of Psychology Fund." The fund is used by the board for the administration of this article. Except as may be provided in article one of this chapter, the board retains the amount in the special revenue account from year to year. No compensation or expense incurred under this article is a charge against the General Revenue Fund.

(b) Any amounts received as fines pursuant to this article shall be deposited into the General Revenue Fund of the State Treasury.

§30218. License to practice psychology ("Licensed Psychologist").

To be eligible for a license to practice psychology as a Licensed Psychologist, the applicant must: (1) Pay the appropriate fee.

(2) Not be an alcohol or drug abuser, as these terms are defined in section eleven, article onea, chapter twentyseven of this code: Provided, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program may be considered;

(3) Not have been convicted of a felony or crime involving moral turpitude in this or any jurisdiction;

(4) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of psychology, which conviction remains unreversed.

(5) Have received a doctoral degree in psychology that is acceptable to the board from a regionally accredited educational institution; provided, however, the board may grant a license to an individual otherwise qualified under this chapter who has received a doctoral degree in psychology that is acceptable to the board from an educational institution outside the United States, if the educational institution would otherwise be accredited by a regional accrediting body if located in the United States. The approved degree program shall be a planned program of study which reflects and integration of the science and practice of psychology including supervised professional practice and/or internship. The program of study must be designated as a doctoral program in psychology by the Association of State

and Provincial Psychology Boards and the National Register of Health Service Providers in Psychology.

(c) Have passed the national EPPP examination at the doctoral level; and

(d) Have completed the equivalent of two full-time years of sequential, organized, supervised professional experience. One of the two years of supervised professional experience shall be an American Psychological Association accredited (or equivalent) pre-doctoral internship.

(6) Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist under conditions of supervision and temporary licensure established by the board. The board shall establish a grace period not to exceed sixty (60) days to allow for the employment and supervision of the applicant by an agency from the time the applicant's degree requirements are completed to the submission of the complete application. An extension of this grace period may be granted in the event the Board has not convened a meeting to consider the submission of the complete application during the initial grace period. During this period of supervision, the applicant for licensure may not supervise licensed psychologists, licensed psychological practitioner, certified psychological associates, other applicants for licensure, or temporarily licensed persons, nor shall he engage in an independent practice, except under the employment of his supervising psychologist. Upon certification to the board of completion of the two (2) years of supervision satisfactory to the board, the applicant shall be examined on psychological practice, ethical principles, and the law.

(7) The board shall grade and keep the examinations and results on file for one (1) year. Upon written request to the board, an applicant may arrange to discuss his or her performance on the examination.

(8) Meet other requirements established by legislative rule by the board.

(9) Upon successful completion of the examination process, the board shall issue a license to practice psychology and the applicant may use the title "licensed psychologist."

(10) A person who is licensed as a psychologist in West Virginia at the time of the effective date of this section shall be determined to have met all requirements for licensure under this article and shall be eligible for renewal of licensure as a licensed psychologist in accordance with the provisions of this article.

§30218a. Scope of practice for Licensed Psychologist.

(a) The licensee's scope of practice shall be determined upon examination for licensure. The board's basic requirements for acceptable education and supervised work experience having been met, the individual shall identify and provide evidence of his areas of competence. When expanding scope of practice beyond those areas specifically identified and approved by the board at the time of licensure, a licensee shall obtain additional training and supervision in the intended area of expansion. The Board shall determine and document reasonable requirements for the additional training and supervision as needed. The Board may further require an oral or written examination, or both, prior to the licensee initiating independent practice in the new scope. The Board shall have in its membership at least one qualified member of the practice area in which the licensee proposes to expand practice. In the event a qualified member of the practice area is not a current member of the Board, the Board shall consult with a qualified licensed psychologist in the licensee's proposed expanded practice area to determine licensure (b) Areas of specialization are the same as areas of expanded scope. Areas of practice

representing specialization recognized by the field require a sequence of specialized training and supervision; specialized work in psychology is limited to the practice of psychologists with formal training in these fields, and any psychologist intending to include such specialized work in their scope of practice must demonstrate to the Board that their education, training and supervised experience has adequately prepared them for this specialized work. Drawing upon nationally recognized standards of practice, the areas of professional work requiring such specialized training shall be identified by the Board through the rules process. The Board requirements for licensure are primary and cannot be circumvented.

(c) The Board is the authority on the practice of psychology and school psychology and the scope of practice for licensees and no other entity shall define or prohibit the practice of psychology or school psychology in West Virginia. The duties of determining a person's initial and continuing qualifications, competence and fitness to practice and enforcing this article, the laws and rules that pertain to the practice of psychology and school psychology are hereby delegated to the board.

(d) A person represents himself or herself to be a "psychologist" if that person uses any title or description of services incorporating the words, whole or in part, psychology, psychological, or psychologist, or if he or she uses any term that implies that he or she possesses expert qualifications in any area of psychology or if that person offers or renders to individuals, groups of individuals or corporate entities or other organizations, services defined as the practice of psychology in this article. Exceptions are limited to those in section one.

§30-21-9. License to practice as an "Licensed Psychological Practitioner"
("Psychological Practitioner")

To be eligible for a license to practice as a psychological practitioner, the applicant must:

(1) Pay the appropriate fee.

(2) Not be an alcohol or drug abuser, as these terms are defined in section eleven, article onea, chapter twentyseven of this code: Provided, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program may be considered;

(3) Not have been convicted of a felony or crime involving moral turpitude in this or any jurisdiction;

(4) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of psychology, which conviction remains unreversed

(5) Submit three (3) letters of endorsement to the board to sit for the examination;

(a) One (1) of the letters shall be from the applicant's current board-approved supervisor of record and shall include a statement describing the scope of practice demonstrated in the clinical experience of the applicant; and

(b). Two (2) letters shall be from licensed psychologists, or other licensed mental health professionals who are acceptable to the board and who are familiar with the clinical work of the applicant;

(3) Documentation of at least sixty (60) semester hours of graduate study in psychology or a related field or its equivalent acceptable to the board; and

(4) Completion, after credentialing by the board as a certified psychological associate, of the equivalent of two (2) full-time years of professional experience under the supervision of a board-approved licensed

psychologist.

(5) An applicant for licensure under this section shall not have been subject to disciplinary action by the board. An applicant who has been the subject of disciplinary action may appeal to the board for an exception.

(6) An applicant for licensure under this section shall be required by the board to pass the national objective examination known as the EPPP, with a score equal to or exceeding the score required for passage for a licensed psychologist candidate at the doctoral level at the time the examination is taken. The board shall accept the applicant's previous examination results for the objective EPPP examination if the original test score satisfied the licensure requirement at the doctoral level in effect at the time of that test administration. If the applicant's previous score does not meet this criterion, the applicant may retake the examination until the score obtained equals or exceeds the score required for independent practice at the doctoral level at the time the examination is taken.

(7) The board shall require an applicant for licensure under this section to pass an examination on psychological practice, ethical principles, and the law. The examination shall be conducted in accordance with procedures established by the Board.

(8) The board shall require an applicant for licensure under this section to have received a master's degree in psychology that is acceptable to the board from a regionally accredited educational institution; provided, however, the board may grant a license to an individual otherwise qualified under this chapter who has received a master's degree in psychology that is acceptable to the board from an educational institution outside the United States, if the educational institution would otherwise be accredited by a regional accrediting body if located in the United States. The approved degree program shall be a planned program of study which reflects an

integration of the science and practice of psychology including supervised professional practice and/or internship and must be intended to prepare psychological service providers or clinicians as clearly described in the program's catalog or other publicly available documentation.

(9) The applicant may continue to function under the supervision of a board-approved licensed psychologist until the applicant successfully completes the requirements for licensure as a licensed psychological practitioner.

(10) The board shall grade and keep the examinations and results on file for one (1) year. Upon written request to the board, an applicant may arrange to discuss his or her performance on the examinations.

(11) Upon successful completion of all requirements, the board shall issue to the applicant a license to perform certain functions within the practice of psychology without supervision and to use the title "licensed psychological practitioner."

(12) The licensee under this section shall not supervise certified psychological associates, or other licensed psychological practitioners.

(13) Meet other requirements established by legislative rule by the board.

§30-21-9a. Scope of practice for licensed psychological practitioner.

(a) The licensee's scope of practice shall be determined upon examination for licensure. The board's basic requirements for acceptable education and supervised work experience having been met, the individual shall identify and provide evidence of his areas of competence. When expanding his or her scope of practice beyond those areas specifically identified and approved by the board at the time of licensure, a licensee shall obtain additional

training and supervision in the intended area of expansion. The Board shall determine and document reasonable requirements for the additional training and supervision as needed. The Board may further require an oral or written examination, or both, prior to the licensee initiating independent practice in the new scope.

(b) Areas of specialization are the same as areas of expanded scope. Specialized work in psychology is limited to the practice of those with formal training in these fields, and any practitioner intending to include specialized work in their scope of practice must demonstrate to the Board that their education, training and supervised experience has adequately prepare them for this specialized work. Drawing upon nationally recognized standards of practice, the areas of professional work requiring such specialized training shall be identified by the Board through the rules process. The Board requirements for licensure are primary and cannot be circumvented.

(c) The Board is the authority on the practice of psychology, and school psychology and the scope of practice for licensees and no other entity shall define or prohibit the practice of psychology or school psychology in West Virginia. The duties of determining a person's initial and continuing qualifications, competence and fitness to practice and enforcing this article, the laws and rules that pertain to the practice of psychology and school psychology are hereby delegated to the board.

(d) A person holding the license of "licensed psychological practitioner" shall use the title "licensed psychological practitioner" or "psychological practitioner."

§30-21-10. Certificate to practice as a certified psychological associate.

To be eligible for a certificate to practice as a certified psychological associate the applicant must:

(1) Pay the appropriate fee.

(2) Not be an alcohol or drug abuser, as these terms are defined in section eleven, article onea, chapter twentyseven of this code: Provided, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program may be considered;

(3) Not have been convicted of a felony or crime involving moral turpitude in this or any jurisdiction;

(4) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of psychology, which conviction remains unreversed

(5) Have received a master's degree in psychology acceptable to the board from a regionally accredited educational institution or from an educational institution outside the United States, if such educational institution would otherwise be accredited by a regional accrediting body if located in the United States;

(a) **A** certified psychological associate may perform certain functions within the practice of psychology practice psychology under the supervision of a licensed psychologist under conditions of temporary certification established by the board

(b) A certified psychological associate holding a temporary certificate shall be required within a period of two years from the date of completion of an approved master's degree program to successfully pass the examination for professional practice in psychology (EPPP) at a pass point designated approved by the Board in order to be considered for permanent certification.

(6) The Board shall grade and keep the examinations and results for one

(1) year. Upon written request to the board, an applicant may arrange to discuss his or her performance on the examination.

(7) Any certified psychological associate certified pursuant to this section may perform certain functions within the practice of psychology only under the supervision of a licensed psychologist approved by the board. The certified psychological associate shall not practice independently, except under the employment and supervision of the board-approved licensed psychologist. A certified psychological associate shall not represent himself or herself as a licensed psychologist or as a licensed psychological practitioner. A certified psychological associate shall not employ or supervise certified psychologists, licensed psychological practitioners, or certified psychological associates.

30-21-10a. Scope of Practice for Psychological Associate.

(a) The certified psychological associate's scope of practice shall be determined upon examination for licensure. The board's basic requirements for acceptable education and supervised work experience having been met, the individual shall identify and provide evidence of his areas of competence

(b) The Board is the authority on the practice of psychology, and school psychology and the scope of practice for licensees and no other entity shall define or prohibit the practice of psychology or school psychology in West Virginia. The duties of determining a person's initial and continuing qualifications, competence and fitness to practice and enforcing this article, the laws and rules that pertain to the practice of psychology and school psychology are hereby delegated to the board.

(c) A person holding the certificate of "certified psychological associate" shall use the title "certified psychological associate " or "psycho-

logical associate.”

§302111. License to practice as a school psychologist, Level I.

(a) To be eligible for a license to practice as a school psychologist, the applicant shall:

(1) Submit an application to the board;

(2) Be at least twentyone years of age;

(3) Be of good moral character;

(4) Pay the appropriate fee;

(5) Obtain a valid certificate of school psychology granted by the state superintendent of schools, have obtained a certificate of advanced study in school psychology and obtained a doctoral or master's degree in school psychology from a board approved institution of higher education, or have received equivalent training as determined by the board;

(6) (A) Have supervised work experience in the practice of school psychology;

(i) A doctoral degree applicant must complete two years of supervised work experience. For those with a board approved doctoral degree, completion of a board approved one year full time internship program may count as one of the two years of supervised work experience, and the remaining one year shall be post degree supervised work experience in the practice of school psychology.

(ii) A master's degree applicant must complete at least three academic years of supervised work experience in the practice of school psychology which includes a one year post degree internship or externship towards completion of the requirements for a certificate of advanced study in school

psychology or similar designation approved by the board: Provided, that Supervisors shall provide a minimum of one hour of individual supervision per twenty hours of the supervisee's work, with a minimum of one hour per week regardless of hours spent in practice.

(7) Pass a standardized national examination in school psychology from the National Association of School Psychologists or other similar organizations and approved as a standardized testing vehicle for school psychologists by the board;

(8) Pass an oral examination conducted by the board; and

(9) Not have been convicted of a felony or crime involving moral turpitude in this or any jurisdiction.

(10) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of psychology or school psychology, which conviction remains unreversed; and

(11) Meet other requirements established by legislative rule by the board.

(b) A person who is licensed as a school psychologist in West Virginia at the time of the effective date of this section shall be determined to have met all requirements for licensure under this article and shall be eligible for renewal of licensure in accordance with the provisions of this article.

§302112. License to practice as a school psychologist, Level II independent practitioner.

(a) An applicant shall meet all the minimum requirements for eligibility as a licensed school psychologist Level I as established in section ten;

(b) Complete an additional two years of board approved supervision by a licensed school psychologist Level II; and

(c) Pass an oral examination conducted by the board.

§302112. Graduate students, interns, and supervisees; assistants and technicians

(a) Students and supervised psychologists may engage in the practice of psychology under the direct supervision of a licensee provided they are:

(1) a matriculated graduate student whose activities constitute a part of the course of study for a graduate degree in psychology at an institution of higher learning;

(2) an unlicensed individual in the supervision track pursuing post graduate degree training or experience in the practice of psychology while under the Board approved supervision of a licensee.

(b) Persons set out in 1. and 2. of this Section and their supervisors are subject to the rules, regulations, standards of practice, codes of ethics and any other guidelines adopted by the Board, as well as disciplinary action by the Board.

(c) Nothing in this Article shall be construed to prevent persons set out in 1. and 2. of this section from engaging in the activities defined as the practice psychology, provided that such persons shall not represent themselves by the title "psychologist". Such persons shall use the relevant terms "student", "psychological intern", or "supervised psychologist," provided that such persons perform their activities under the supervision and responsibility of a licensed psychologist in accordance with the rules promulgated by the Board.

(d) Furthermore, with proper documentation and board approval, an assistant or technician, properly trained and educated based on board determined standards, may perform limited and appropriate duties under the direct and regular supervision of a licensee.

(e) Denial of licensure terminates this authorization.

§302113. Renewal of license.

(a) A license to practice psychology, a license to practice as a licensed psychological practitioner; and a certificate to practice as a psychological associate shall be valid for a period of two years from the date issued and may be renewed for a period of two years without examination upon application for renewal on a form prescribed by the board and payment to the board of renewal fees to be set by the board by legislative rule.

(b) The license to practice school psychology shall be valid for a period of three years from the date issued and may be renewed for a period of three years without examination upon application for renewal on a form prescribed by the board and payment to the board of a renewal fees to be set by the Board by legislative rule.

(c) The board shall charge a fee for each renewal of a license and may charge a late fee for any renewal not paid by the due date. (d) The board shall require as a condition of renewal that each licensee complete continuing education.

(e) The board may deny an application for renewal for any reason which would justify the denial of an original application for a license.

§302114. Delinquent and expired license requirements.

(a) If a license is not renewed when due, then the board shall automatically place the licensee on delinquent status. A licensee on delinquent status may not practice in this state.

(b) The fee for a person on delinquent status shall increase at a rate, determined by the board, for each month or fraction thereof that the renewal fee is not paid, up to a maximum of thirtysix months.

(c) Within thirtysix months of being placed on delinquent status, if a licensee wants to return to active practice, he or she must complete all the continuing education requirements and pay all the applicable fees as set by rule.

(d) After thirtysix months of being placed on delinquent status, a license is automatically placed on expired status and cannot be renewed. A person whose license has expired must reapply for a new license.

§303015. Inactive license requirements.

(a) A licensee who does not want to continue an active practice shall submit an application and any applicable fee to be granted inactive status.

(b) Once granted inactive status, a person is not subject to the payment of any fee and may not practice in this state.

(c) When the person wants to return to practice, the person shall submit an application for renewal along with all applicable fees as set by rule.

(d) When inactive status has been of more than 5 years duration, during which time the individual has not been practicing as a licensed psychologist in any Board recognized jurisdiction, an oral examination shall be required prior to reactivation of the license.

§302116. Temporary permit to practice psychology.

(a) Upon proper application, the board may issue until examination at the next available board meeting a temporary permit to engage in the practice of psychology in this state to an applicant of good moral character who meets the provisions of this article and who holds a valid license to practice psychology in another jurisdiction, if the applicant demonstrates that he or she:

(1) Holds a license or other authorization to practice psychology in

another state which requirements are substantially equivalent to those required in this state. The board may enter into agreements for reciprocal licensing with other jurisdictions having substantially similar requirements for licensure;

(2) Does not have charges pending against his or her license or other authorization to practice, and has never had a license or other authorization to practice revoked or otherwise sanctioned;

(3) Has not previously failed an examination for professional licensure in this state;

(4) Has paid the applicable fee;

(5) Has passed the EPPP or other examination prescribed by the board;
and

(6) Has fulfilled any other requirement specified by the board.

(b) The board shall interview and examine an applicant for licensing under this section. If the permittee fails to pass the examination, the temporary permit expires immediately.

(c) An applicant under this subsection may only be issued one temporary permit. Upon the expiration of a temporary permit, a person may not practice psychology until he or she is fully licensed under the provisions of this article. In no event may a permittee practice on a temporary permit beyond a period of 180 consecutive days.

(d) A temporary permittee under this section shall work under the supervision of a licensee. Provided, however, That no such license or temporary permit shall be required for a psychologist who is not a resident of this state, who is the holder of a license or certificate to engage in the practice of psychology issued by a state with licensing or certification requirements determined by the board to be at least as great as those provided in this

article, who has no regular place of practice in this state and who engages in the practice of psychology in this state for a period of not more than ten days in any calendar year.

§302117. Other licensed professionals.

Nothing in this Article shall be construed to prevent members of other recognized professions that are licensed and regulated under the laws of this state from rendering services consistent with their professional education, training and code of ethics, provided that they do not represent themselves to be psychologists.

§302118. Display of license.

(a) The board shall prescribe the form for a license and permit, and may issue a duplicate license or permit upon payment of a fee.

(b) Any person regulated by the article shall conspicuously display his or her license or permit at his or her principal place of practice.

§302119. Privileged communications.

(a) A licensee may not disclose any information provided by a client or from persons consulting the licensee in a professional capacity, except that which may be voluntarily disclosed under the following circumstances:

(1) In the course of formally reporting, conferring or consulting with administrative superiors, colleagues or consultants who share professional responsibility, in which instance all recipients of such information are similarly bound to regard the communication as privileged;

(2) With the written consent of the person who provided the information;

(3) In case of death or disability, with the written consent of a personal representative, other person authorized to sue, or the beneficiary of an insurance policy on the person's life, health or physical condition;

(4) When a communication reveals the intended commission of a crime or harmful act and such disclosure is judged necessary by the psychologist to protect any person from a clear, imminent risk of serious mental or physical harm or injury, or to forestall a serious threat to the public safety; or

(5) When the person waives the privilege by bringing any public charges against the licensee.

(b) When the person is a minor and the information acquired by the licensee indicates the minor was the victim of or witness to a crime, the licensee may be required to testify in any judicial proceedings in which the commission of that crime is the subject of inquiry and when the court determines that the interests of the minor in having the information held privileged are outweighed by the requirements of justice.

(c) Any person having access to records or anyone who participates in providing services or who, in providing any human services, is supervised by a licensee, is similarly bound to regard all information and communications as privileged in accord with the section.

(d) Nothing shall be construed to prohibit a licensee from testifying in court hearings concerning matters of adoption, child abuse, child neglect or other matters pertaining to children, elderly, and physically and mentally impaired adults, except as prohibited under the applicable state and federal laws.

§302120. Actions to enjoin violations.

(a) If the board obtains information that a person has engaged in, is engaging in or is about to engage in any act which constitutes or will constitute a violation of this article, the rules promulgated pursuant to this article, or a final order or decision of the board, it may issue a notice to the person to cease and desist in engaging in the act and/or apply to the circuit court in the county of the alleged violation for an order enjoining

the act.

(b) The circuit courts of this state may issue a temporary injunction pending a decision on the merits, and may issue a permanent injunction based on its findings in the case.

(c) The judgment of the circuit court on an application permitted by this section is final unless reversed, vacated or modified on appeal to the West Virginia Supreme Court of Appeals.

§302121. Complaints; investigations; due process procedure; grounds for disciplinary action.

(a) The board may upon its own motion based on credible information, and shall upon the written complaint of a person, cause an investigation to be made to determine whether grounds exist for disciplinary action under this article or the legislative rules promulgated pursuant to this article.

(b) Upon initiation or receipt of the complaint, the board shall provide a copy of the complaint to the licensee or permittee.

(c) After reviewing any information obtained through an investigation, the board shall determine if probable cause exists that the licensee or permittee has violated subsection (g) of this section or rules promulgated pursuant to this article.

(d) Upon a finding that probable cause exists that the licensee or permittee has violated subsection (g) of this section or rules promulgated pursuant to this article, the board may enter into a consent decree or hold a hearing for the suspension or revocation of the license or permit or the imposition of sanctions against the licensee or permittee. Any hearing shall be held in accordance with this article.

(e) The board president or its administrator may issue subpoenas and

subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person regulated by the article.

(f) The board president or its administrator may sign a consent decree or other legal document on behalf of the board.

(g) The board may, after notice and opportunity for hearing, deny or refuse to renew, suspend, restrict or revoke the license or permit of, or impose probationary conditions upon or take disciplinary action against, any licensee or permittee for any of the following reasons once a violation has been proven by a preponderance of the evidence:

(1) Obtaining a license or permit by fraud, misrepresentation or concealment of material facts;

(2) Being convicted of a felony or other crime involving moral turpitude in this or any jurisdiction;

(3) Committing unprofessional conduct which placed the public at risk;

(4) Intentional violation of a lawful order or legislative rule of the board;

(5) Having had a license or other authorization revoked or suspended, other disciplinary action taken, or an application for licensure or other authorization revoked or suspended by the proper authorities of another jurisdiction;

(6) Exceeding their scope of practice of psychology;

(7) Engaging in false and deceptive advertising;

(8) Aiding or abetting unlicensed practice; or

(9) Engaging in an act while acting in a professional capacity which has endangered or is likely to endanger the health, welfare or safety of the

public.

(h) For the purposes of subsection (g) of this section, effective July 1, 2012, disciplinary action may include:

(1) Reprimand;

(2) Probation;

(3) Restrictions;

(4) Administrative fine, not to exceed \$1,000 per day per violation;

(5) Mandatory attendance at continuing education seminars or other training;

(6) Practicing under supervision or other restriction; or

(7) Requiring the licensee or permittee to report to the board for periodic interviews for a specified period of time; or

(8) Other corrective action deemed necessary and appropriate

by the board;

(i) In addition to any other sanction imposed, the board may require a licensee or permittee to pay the costs of the proceedings.

(j) The board may temporarily suspend a license or permit without a hearing while instituting proceedings for a hearing under this section if the board possesses evidence that the psychologist's continuation in practice may constitute an immediate danger to the public.

(k) A licensee or permittee may surrender his or her license when such person is charged with unethical conduct and upon receipt of that charge the licensee decides to surrender the license. The surrender and acceptance by the board shall constitute acknowledgment by the psychologist of guilt as

charged and is considered a public and reportable disciplinary action. Such surrender shall not rescind the jurisdiction of the board to proceed to formal adjudication of the matter.

(1) The board shall also suspend or revoke any license or temporary permit if it finds the existence of any grounds that would justify the denial of an application for such license or temporary permit if application were then being made for it.

§302122. Procedures for hearing.

(a) Hearings are governed by section eight, article one of this chapter.

(b) The board may conduct the hearing or elect to have an administrative law judge who is a licensed attorney in the state of West Virginia conduct the hearing.

(c) If the hearing is conducted by an administrative law judge, at the conclusion of a hearing he or she shall prepare a proposed written order containing findings of fact and conclusions of law. The proposed order may contain proposed disciplinary actions if the board so directs. The board may accept, reject or modify the decision of the administrative law judge.

(d) Any member or the administrator of the board has the authority to administer oaths, examine any person under oath and issue subpoenas and subpoenas duces tecum.

(e) If, after a hearing, the board determines the licensee or permittee has violated this article or the board's rules, a formal written decision shall be prepared which contains findings of fact, conclusions of law and a specific description of the disciplinary actions imposed.

§302123. Judicial review; right of appeal.

A licensee or permittee adversely affected by a decision of the board

entered after a hearing may obtain judicial review of the decision in accordance with section four, article five, chapter twentyninea of this code, and may appeal any ruling resulting from judicial review in accordance with article six, chapter twentyninea of this code.

§302124. Penalties.

(a) When, as a result of an investigation under this article or otherwise, the board has reason to believe that a licensee or permittee has committed a criminal offense under this article, the board shall bring its information to the attention of an appropriate lawenforcement official.

(b) A person violating this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$5,000 or confined in jail not more than six months, or both fined and confined.

§302125. Severability.

If any provision of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the article, and to this end the provisions of this article are declared to be severable.

§302126. Single act evidence of practice.

In any action brought or in any proceeding initiated under this article, evidence of the commission of a single act prohibited by this article is sufficient to justify a penalty, injunction, restraining order or conviction without evidence of a general course of conduct.