

MAINE STATE LEGISLATURE

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December 16, 1975

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Qualifications for Psychologists

This will respond to your request for an opinion regarding qualifications for the Psychologist III classification.

You ask whether the Personnel Board has the authority to impose a necessary special requirement of licensure as a qualification for certification as a Psychologist III in the Department of Mental Health and Corrections.

Yes. The Board is charged, inter alia, with the duty to prescribe rules and regulations relative to "classification of positions in the classified service; examination for admission to the classified service; and, promotion in the classified service." 5 M.R.S.A. § 592. To carry out these duties, the Board must determine the qualifications essential to perform the duties and discharge the responsibilities of each position in the classified service. Thus, Rule 4.7 of the Personnel Law and Rules provides:

"The director shall provide. . . a statement of the qualifications a person should possess to enable him to enter upon the duties of a position of the class with reasonable prospects of success. . . ."

The duties and responsibilities of a Psychologist III include "independent assessment and treatment responsibilities and also. . . examinations and certifications which, by law, are required to be performed by a 'licensed psychologist'." (See 34 M.R.S.A. §§2333 & 2334 and 15 M.R.S.A. § 101). A "licensed psychologist" is authorized, and presumably competent, to provide treatment, among other services. A licensed "psychological examiner," by contrast, is not authorized to provide treatment but only evaluation services. The corresponding State job category is "Psychologist II." Consequently, the Board requirement that a Psychologist III in the Department of Mental Health and Corrections hold a valid Maine psychologist license directly reflects the duties and responsibilities of the position and is a valid expression of the Board's classification responsibility.

This conclusion is not, in our opinion, affected by § 557 of Title 5, M.R.S.A., providing in pertinent part:

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"No application for a position in state government shall be rejected solely because the applicant lacks educational qualifications. Acceptable equivalent combinations of experience or education, or both, may be substituted for formal educational qualifications, except where such educational qualifications are reflected in necessary registrations such as to practice law, medicine or engineering or where such educational requirements are set as standards by federal agencies making grants-in-aid or otherwise contributing to state programs."

A psychologist's license is one of the "necessary registrations" excepted by this section. Nothing in the language of § 557 suggests that it was intended to deprive any State agency of power to require that a State employee practicing a profession, such as psychology or engineering, be licensed as such. In fact, § 3831, et seq. of 32 M.R.S.A. requires that all persons, including State employees who wish to practice psychology, be licensed by the State Board of Psychological Examiners. Section 3812 (32 M.R.S.A.) does not give State employees the right to practice psychology without a license in State institutions.

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