

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1072

S. P. 409

In Senate, February 22, 1967

Referred to Committee on Legal Affairs. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Katz of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT to Regulate the Practice of Psychologists.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 32, c. 58, additional. Title 32 of the Revised Statutes is amended by adding a new chapter 58, to read as follows:

CHAPTER 58

PSYCHOLOGISTS

SUBCHAPTER I

GENERAL PROVISIONS

§ 3961. Practice of medicine not authorized

Nothing in this chapter shall authorize any person to engage in the practice of medicine.

§ 3962. Definition of practice of psychology

Two levels of psychological practice are defined for the purpose of this chapter. Such levels shall be known and referred to as "psychological examiner" and "psychologist".

1. **Psychological examiner.** A person practices as a "psychological examiner" within the meaning of this chapter when he holds himself out to be a psychological examiner, or renders to individuals or to the public for remuneration any service involving the application of recognized principles, methods and procedures of the science and profession of psychology, such as interviewing or administering and interpreting tests of mental abilities, aptitudes, interests and

personality characteristics, for such purposes as psychological evaluation or for educational or vocational selection, guidance or placement. The psychological examiner, offering services to the public for remuneration, practices the following only under supervision of a licensed "psychologist": Overall personality appraisal or classification, personality counseling, psychotherapy or personality readjustment techniques.

2. **Psychologist.** A person practices as a "psychologist" within the meaning of this chapter when he holds himself out to be a psychologist, or renders to individuals or to the public for remuneration any service involving the application of recognized principles, methods and procedures of the science and profession of psychology, such as interviewing or administering and interpreting tests of mental abilities, aptitudes, interests and personality characteristics, for such purposes as psychological evaluation or for educational or vocational selection, guidance or placement, or for such purposes as overall personality appraisal or classification, personality counseling, psychotherapy or personality readjustment.

3. **Limitation.** Nothing in this chapter shall be construed as permitting the use of those forms of treatment which involve the administration or prescription of drugs or electroshock or in any way infringing upon the practice of medicine as defined in the laws of this State.

§ 3963. Unlawful practice

It is specifically prohibited that any individual or organization shall present himself or be presented to the public by any title incorporating the name "psychological," "psychologist" or "psychology," other than those so licensed by this chapter, except that any psychological scientist employed by a recognized research laboratory, college, university or state or federal institution may represent himself by the title conferred upon him by the administration of such or equivalent laboratory, college, university or state or federal institution. Nothing in this section shall be construed as permitting such persons to offer their service to any other persons or organizations as consultants or to accept remuneration for any psychological services other than that of their institutional salaries unless they have been licensed under this chapter. Visiting lecturers from recognized laboratories, colleges or universities are exempt from this section and may utilize their academic research title when presenting lectures to similar institutions or organizations. Students of psychology, psychological interns and other persons preparing for the profession of psychological examiner or psychologist under qualified supervision in recognized training institutions or facilities may be designated by such titles as "psychological intern", "psychological trainee" or others clearly indicating such training status.

§ 3964. Limitations

Nothing in this chapter shall be construed to limit the professional pursuits of teachers and counselors in recognized public and private schools, clergymen, lawyers, practitioners of medicine or dentistry, social workers, sociologists or probation and parole officers from full performance of their professional duties. In such performance any title used must be in accord with section 3963. Students of psychology, psychological interns and other persons preparing for the

profession of psychological examiner or psychologist may perform as a part of their training the functions specified in section 3962, but only under the supervision of a licensed psychologist. Use of psychological techniques by government institutions, business and industrial organizations for employment purposes, evaluation, promotion or job adjustment of their own officers or employees or by employment agencies for the evaluation of their own clients prior to recommendation for employment is specifically allowed. No industrial or business firm or corporation may sell or offer to the public or to other firms or corporations for remuneration any psychological services as specified in section 3962, unless such services are performed or supervised by individuals duly and appropriately licensed under this chapter as "psychologist".

§ 3965. Penalties

If any person shall hold himself out to the public as being engaged in the practice of psychology, such as clinical, consulting, industrial, personnel or counseling psychology and shall not then possess in full force and virtue a valid license to practice as psychological examiner or psychologist under this chapter, he shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$100 nor more than \$500 for each offense or by imprisonment for 3 months, or by both.

§ 3966. Privileged communications

For the purpose of this chapter, the confidential relations and communications between licensed psychologist or psychological examiner and client are placed upon the same basis as those provided by law between attorney and client. Nothing in this chapter shall be construed to require any such privileged communication to be disclosed.

§ 3967. Code of ethics

The board of examiners shall adopt a code of ethics in keeping with those standards established by the American Psychological Association to govern appropriate practices or behavior as referred to in this chapter, and shall file such code with the Secretary of State within 30 days prior to the effective date of such code.

SUBCHAPTER II BOARD OF EXAMINERS

§ 3971. Membership; terms; vacancies

There is created a State Board of Examiners in Psychology, hereinafter in this chapter called the "board," to consist of 5 members who shall be appointed by the Governor. Within 30 days after the effective date of this Act, the Maine Psychological Association shall submit to the Governor their recommendation of the members to be appointed, and the Governor shall act promptly by making said appointments for the terms set forth. Selection shall be from recommendation by the association which shall name 10 members eligible for licensing under this chapter, from which 5 members shall be appointed. All vacancies occurring on the board shall be filled by the Governor for the unexpired term

from said list of qualified members, within 30 days after the vacancy occurs. The members first appointed on the board shall be designated as serving from one to 5-year terms respectively, in order to provide staggered terms for service on said board, and thereafter all appointments shall be for 5-year terms. On or before the date when a member's term expires, the association shall make its recommendations to the Governor for a successor appointee and such successor appointee shall be named by the Governor on or before the expiration date of the terms so expiring.

§ 3972. Meetings; organization; powers and duties

Within 30 days after their appointment, the board shall meet and organize by electing a chairman, secretary and treasurer. Each member shall receive all necessary expenses incident to holding meetings, provided that such expense shall not exceed the fees collected by said board. The board shall hold at least one regular meeting each year. Called meetings may be held at the discretion of the chairman or at the written request of any 2 members of the board. Said board shall adopt a seal, which must be affixed to all licenses issued by the board. The board shall from time to time adopt such rules and regulations as they may deem necessary for the performance of their duties, and shall examine and pass upon the qualifications of the applicants for the practice of psychology. Three members of the board shall at all times constitute a quorum. The board shall be empowered to hire such assistants as is necessary to carry on its activities, within the limits of funds available to the board, and shall be empowered to accept grants from foundations or institutions.

§ 3973. Disposal of fees

All fees charged and collected by the board, as well as all moneys credited to the previous board, shall be deposited by it in the State Treasury to the credit of the board. All such moneys are appropriated to be used by the board in carrying out this chapter. The expenditures of the board may be paid only from such moneys.

SUBCHAPTER III REGISTRATION

§ 3981. Registration; qualifications

1. Psychological examiner. Any person wishing to obtain the right to practice as a psychological examiner, who has not heretofore been licensed to do so, shall, before it shall be lawful for him to practice as a psychological examiner, make application to the Board of Examiners in Psychology through the chairman, upon such form and in such manner as shall be adopted and prescribed by the board, and obtain from the board a license to do so. Unless such a person has obtained a license, it shall be unlawful for him to practice, and if he shall practice as a psychological examiner without first having obtained such a license he shall be deemed to have violated this chapter. A candidate for such license shall furnish the board with satisfactory evidence that he is of good moral character, has had a master's degree from an accredited educational institution recognized by the board as maintaining satisfactory standards, or its academic equivalent in the opinion of the board, has had at least one year of

full-time supervised experience in psychology of a type considered by the board to be qualifying in nature, is competent as a psychological examiner as shown by passing such examinations, written or oral, or both, as the board deems necessary, is not considered by the board to be engaged in unethical practice, and has not within the preceding 6 months failed an examination given by the board. The board may in its discretion refuse to grant a license to an applicant who is not an American citizen.

2. **Psychologist.** Any person wishing to obtain the right to practice as a psychologist, who has not heretofore been licensed to do so, shall, before it shall be lawful for him to practice psychology, make application to the Board of Examiners in Psychology through the chairman, upon such form and in such manner as shall be adopted and prescribed by the board, and obtain from the board a license to do so. Unless such a person has obtained a license, it shall be unlawful for him to practice, and if he shall practice psychology without first having obtained a license, he shall be deemed to have violated this chapter. A candidate for such license shall furnish the board with satisfactory evidence that he is of good moral character, has received a doctorate degree in psychology from an accredited institution recognized by the board as maintaining satisfactory standards, at the time the degree was granted, or, in lieu of degree, a doctorate degree in a closely allied field, if it is the opinion of the board that the training required therefor is substantially similar, has had at least 2 years of experience in psychology of a type considered by the board to be qualifying in nature, is competent in psychology, as shown by passing such examinations, written or oral, or both, as the board deems necessary, is not considered by the board to be engaged in unethical practice, and has not within the preceding 6 months failed an examination given by the board. The board may in its discretion refuse to grant a license to an applicant who is not an American citizen.

§ 3982. Examination

Examination of applicants for a license to practice psychology or as psychological examiner shall be made by the Board of Examiners in Psychology at least once a year according to methods and in such subject fields as may be deemed by the board to be the most practical and expeditious to test the applicant's qualifications. Such examinations shall include the basic psychological sciences. The board shall require the examinations to be written or oral, or both, **provided that in any written examination such applicant shall be designated by a number instead of his name so that his identity shall not be disclosed to the members of the board until the examination papers have been graded.** The board shall grade the written examinations returned by the candidate and shall keep them for at least 3 years. A candidate shall be held to have passed the examination upon the affirmative vote of 3 or more members of the board. Any unsuccessful candidate may, upon written request to the board, see his graded paper.

§ 3983. Fees

There shall be paid to the board chairman by each applicant for a permanent license a fee of \$35. No part of this fee shall be returnable under any circumstances other than failure of the board to hold examinations at the time originally announced, whereupon the entire fee may be returned at the option of the candidate.

§ 3984. Issuance of license

Said board shall be the sole agency empowered to examine concerning competence in the practice of psychology, and to grant license for the practice of psychology at the appropriate level. Such license shall be signed by the chairman of the Board of Examiners in Psychology attested by the secretary under the board's adopted seal, whereupon a proper license shall be issued.

§ 3985. Biennial registration

The board shall have authority to adopt and enforce rules and regulations requiring every person having a license to practice, which is granted by said board, to pay a biennial registration fee, in a sum to be fixed by the board. Said fee shall become due on a date fixed by the board.

Failure to pay the biennial registration fee 30 days from the time stated shall automatically suspend the right of any licentiate to practice his or her profession while delinquent.

If any licentiate fails for 4 consecutive years to pay said fee it shall be the duty of the board, without hearing or notice, to cancel his or her license, subject to reinstatement. If application for reinstatement is made the board shall consider the moral character and professional qualifications of the applicant, as in the case of an original application.

§ 3986. Licensure under special conditions

For a period of one year from the effective date of this Act the board shall grant, upon payment of the regular fee, a license as Psychologist to any applicant presently holding a valid certificate in psychology issued by the Maine Board of Examiners of Psychology. The board may, at any time at its discretion, grant a certificate without an assembled examination to any person residing or employed in the State who at the time of application is licensed or certified by a similar board of another state whose standards, in the opinion of the board, are not lower than those required by this chapter. The board, at its discretion, may issue a temporary license, at the appropriate level, to applicants for a permanent license upon payment of a fee, to be established by the board, such license to be valid for no more than one year from date of issue.

§ 3987. Suspension, refusal or revocation of license

The Board of Examiners in Psychology may refuse to grant a license, or may recommend suspension of any such license for a period to be determined by the board, on the following grounds: The employment of fraud or deception in applying for a license or in passing the examination provided for in this chapter; conviction of a felony involving moral turpitude; the practice of psychology under a false or assumed name or the impersonation of another practitioner of a like or different name; habitual intemperance in the use of ardent spirits, narcotics or stimulants to such an extent as to incapacitate him for the performance of his duties; an incapacitating mental illness; violation of the medical practices act; practice of a level of psychology inappropriate to the particular license held by the licentiate; upon recommendation of the ethics committee of the Maine Psychological Association or of the American Psychological Association; or negligence or wrongful actions in the performance of his duties. Said board may,

upon satisfactory proof that any applicant or licentiate has been guilty of any of the above offenses, refuse to grant a license to said applicant upon a vote of at least 3 members of the board or the Administrative Hearing Commissioner, as designated in Title 5, chapters 301 to 307, may revoke a license of said licentiate. An application for reinstatement may be made to the board, and it may, upon favorable action by 3 of its members, reinstate the applicant.

§ 3988. Hearing on refusal, revocation, suspension

The board may not refuse to issue or to renew any license for any cause listed, unless the person accused has been given at least 20 days' notice in writing by registered mail, with return receipt demanded, of the charges against him and a public hearing by the board. The written notice shall be mailed to the person's last known address, but the nonappearance of the person shall not prevent such a hearing. Upon such a hearing, the board may administer oaths and procure by its subpoenas the attendance of witnesses and the production of relevant books and papers.

§ 3989. Review of board's ruling

Any action of, or ruling or order made or entered by the board declining to issue a certificate or declining to recommend licensure, shall be subject to review by the courts of this State in the same manner, and subject to the same powers and conditions as now provided by law in regard to rulings, orders and findings of other quasi-judicial bodies in Maine, where not otherwise specifically provided.

Sec. 2. R. S., T. 32, §§ 3851-3953, repealed. Sections 3851 to 3952, and section 3953, as amended by section 20 of chapter 425 of the public laws of 1965, of Title 32 of the Revised Statutes, are repealed.

Sec. 3. R. S., T. 5, § 151, amended. The first sentence of section 151 of Title 5 of the Revised Statutes is amended to read as follows:

All money received by the Treasurer of State from the Board of Registration in Medicine, the Board of Examiners in Physical Therapy, the Board of Examiners of Psychologists in Psychology, the State Board of Nursing, the Board of Examiners of Applicants for Admission to the Bar, the Board of Accountancy, the Board of Veterinary Examiners, the Board of Osteopathic Examination and Registration, the Board of Examiners of Funeral Directors and Embalmers, the State Board of Registration and Examination in Optometry, the Board of Dental Examiners, the State Board of Registration for Professional Engineers, the State Board of Architects, the Electricians' Examining Board, the Oil Burner Men's Licensing Board, the State Board of Barbers, State Board of Hairdressers, the Examiners of Podiatrists, the Board of Chiropractic Examination and Registration and the Board of Commissioners of the Profession of Pharmacy shall constitute a fund, which shall be a continuous carrying account for the payment of the compensation and expenses of the members, the expenses of the board and for executing the law relating to each board respectively and so much thereof as may be required is appropriated for said purposes.

Sec. 4. R. S., T. 5, § 2301, sub-§1, amended. That part of subsection 1 of section 2301 of Title 5 of the Revised Statutes which relates to the Board of Examiners of Psychologists is amended to read as follows:

Board of Examiners of Psychologists in Psychology.