

No. 52

## AN ACT

SB 367

Relating to the practice of psychology, providing for licensing of psychologists, making certain acts illegal and providing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The practice of psychology in the Commonwealth of Pennsylvania is hereby declared to affect the public safety and welfare, and to be subject to regulation and control in the public interest to protect the public from unprofessional, improper, unauthorized and unqualified practice of psychology, and from unprofessional conduct by persons licensed to practice psychology. This act should be liberally construed to carry out these objects and purposes.

Section 2. As used in this act:

(1) "Board" means the Pennsylvania Board of Psychologist Examiners in the Department of State.

(2) "Commissioner" means the Commissioner of Professional and Occupational Affairs in the Department of State.

(3) "Practice of psychology" means any one or more of the following:

Holding one's self out to the public by any title or description of services incorporating the words "psychological," "psychologist," or "psychology," and under such description offers to render or renders to individuals, corporations, institutions, governmental agencies, or to the public for remuneration any service involving the following:

(i) The application of established principles of learning, motivation, perception, thinking, and emotional relationships to problems of personality evaluation, group relations, and behavior adjustment. The application of said principles includes, but is not restricted to, counseling and the use of psychological methods with persons or groups with adjustment problems in the areas of work, family, school, and personal relationships; measuring and testing of personality, intelligence, aptitudes, and emotions, and offering services as a psychological consultant.

(ii) Performing or offering to perform any one or more of the following acts or services: (a) "Measuring and testing," consisting of the psychological assessment and evaluation of abilities, attitudes, aptitudes, achievements, adjustments, motives, personality dynamics and/or other psychological attributes of individuals, or groups of individuals by means of standardized measurements or other methods, techniques or procedures recognized by the science and profession of psychology, (b) "psychological methods," consisting of the application of principles of learning and motivation in an interpersonal situation with the objectives of modification of perception and adjustment, and require highly

developed skills in the disciplines, techniques, and methods of altering through learning processes, attitudes, feelings, values, self-concept, personal goals and adaptive patterns, (c) "psychological consulting," consisting of interpreting or reporting upon scientific fact or theory in psychology, rendering expert psychological opinion, psychological evaluation, or engaging in applied psychological research.

Section 3. It shall be unlawful for any person to engage in the practice of psychology or to offer or attempt to do so unless he shall first have obtained a license pursuant to this act, except as hereinafter provided:

(1) Simple acts of persuasion or suggestion by one person to another, or to a group.

(2) Persons licensed to practice any of the healing arts in this Commonwealth shall be exempt from the provisions of this act. Nothing in this act shall be construed to limit the practice of persons licensed to practice any of the healing arts in any way and any persons offering services under the direct supervision of such persons licensed to practice the healing arts shall be exempt. Nothing herein shall be construed as authorizing any person licensed as a psychologist to engage in any manner in the practice of any of the healing arts as defined in the laws of this Commonwealth on the effective date of this act. The psychologist who engages in practice shall assist his client in obtaining professional help for all relevant aspects of his problem that fall outside the boundaries of the psychologist's own competence. Provision must be made for the diagnosis and treatment of relevant health care problems by an appropriate qualified practitioner of the healing arts.

(3) Nothing in this act shall be construed to prevent qualified members of other recognized professions from doing work of a psychological nature consistent with the training and the code of ethics of their respective professions.

(4) Nothing in this act shall be construed to limit the practice of psychology or use of an official title on the part of a person employed as a psychologist by a Federal, State, county, or municipal agency, or other political subdivisions, or those persons certified and employed as school psychologists in the public and private schools of the Commonwealth, in so far as such practice is a part of the normal function of his salaried position or is performed on behalf of or according to the usual expectations of his employer.

(5) Nothing in this act is to be construed as restricting the use of the term "social psychologist" by any person who meets the qualifications specified in section 6.

(6) Nothing in this act shall be construed to limit the practice of psychology or use of an official title on the part of a member of the faculty or staff of a duly accredited university, college, hospital or State-approved nonpublic school in so far as such practice is a part of the normal function of his salaried position or is performed on behalf of or according to the

usual expectations of his employer. Nothing in this act shall be construed to limit the practice of psychology or use of an official title on the part of a student, intern or resident in psychology, pursuing a course of study in a duly accredited university, college or hospital or similar training facility for the qualified training of psychologists, provided that such practice and use of title constitute a part of his supervised course of study, and he is designated by such titles as "psychology intern," "psychology trainee," or other title clearly indicating such training status. Nothing in this act shall be construed to limit the activities of a faculty or staff member of a duly accredited university, college, or hospital, or research unit of a duly recognized business or industrial firm or corporation, in the performance of experimental and scientific research activities for the primary purpose of contributing to or enlarging upon scientific principles of psychology. Nothing in this act shall be construed to limit the use of the term "psychology," "psychologist," or "psychological," in connection with the aforementioned experimental or scientific research activities or for the purpose of publication of the research findings in professional and scientific journals, or for the purpose of providing scientific information to any user of such information.

(7) Nothing in this act shall be construed to prohibit the practice of psychology by a person who, in the opinion of the board meets the minimum qualifications for licensure under this act, provided said person is on temporary assignment in this Commonwealth.

(8) Nothing in this act shall be construed to prohibit employes of business and industrial organizations from applying the principles of psychology described in clause (3) of section 2 to the employment placement, evaluation, selection, promotion or job adjustment of their own officers or employes or those of any associated organization. No business or industrial firm or corporation may sell or offer to the public or to individuals or to other firms or corporations for remuneration any psychological acts or services as are part of the practice of psychology unless such services are performed by individuals duly and appropriately licensed under this act.

(9) Nothing in this act shall be construed to limit the activities of a salaried employe in the performance of duties incidental to and necessary to the work of a psychologist, provided that the salaried employe acts at all times under the supervision of a licensed psychologist, and provided further that the employe does not assume to the independent practice of psychology.

Section 4. There is hereby created the Pennsylvania Board of Psychologist Examiners as follows:

(1) Said board shall consist of seven members who are citizens of the United States, residents of the Commonwealth of Pennsylvania for a three-year period, six of whom are to be appointed by the Governor with the advice and consent of two-thirds of all the members of the Senate

within ninety days from the effective date of this act and the commissioner shall serve, ex officio, as the seventh member of the board. At the first meeting the appointed members shall determine by lot two members to serve three-year terms, two members to serve two-year terms and two members to serve one-year terms.

(2) When the term of each member of the board ends, the Governor shall appoint his successor for a term of three years. Any vacancy occurring on the board shall be filled by the Governor by appointment for the unexpired term. Board members shall continue to serve until their successors are appointed.

(3) The board shall have at least two members who, at the time of appointment are engaged primarily in rendering professional services in psychology and at least two members who at the time of appointment are engaged in research in psychology or the teaching of psychology, one of whom shall be from a university granting doctoral degrees in psychology, all of whom shall be eligible for licensing under this act. One member of the board shall be appointed by the Governor from nominations of members of the office of mental health and mental retardation submitted by the commissioners. One member of the board shall be appointed by the Governor from nominations of mental health and mental retardation advocacy groups submitted by their boards of directors.

(4) No board member shall serve more than two consecutive terms.

(5) Each board member shall receive actual necessary traveling expenses incidental to board meetings, plus per diem expenses as approved by the commissioner upon recommendation of the board.

(6) The board shall within one hundred fifty days after the effective date of this act, and annually thereafter in the month prescribed by the board, hold a meeting, and elect a chairman and vice-chairman. The board shall meet at such other times as deemed necessary and advisable by the chairman, or by a majority of its members. Reasonable notice of all meetings shall be given in the manner prescribed by the board. A majority of the board shall constitute a quorum at any meeting or hearing.

Section 5. The board shall have the following powers:

(1) To pass upon the qualifications and fitness of applicants for licenses and reciprocal licenses; and to adopt and revise rules and regulations requiring applicants to pass examinations relating to their qualifications as a prerequisite to the issuance of license.

(2) To adopt, and, from time to time, revise such rules and regulations not inconsistent with the law as may be necessary to carry into effect the provisions of this act. Such rules and regulations shall include, but not be limited to, a code of ethics for psychologists in the State, based upon ethical standards for psychologists of the American Psychological Association.

(3) To examine for, deny, approve, issue, revoke, suspend and renew the licenses of psychologist applicants pursuant to this act, and to conduct hearings in connection therewith.

(4) To conduct hearings upon complaints concerning violations of the provisions of and the rules and regulations adopted pursuant to this act and cause the prosecution and enjoinder of all such violations.

(5) To expend moneys necessary to the proper carrying out of their assigned duties.

(6) To waive examination and grant a license in cases deemed exceptional by the board.

Provided, however, that any one or more of the powers hereinbefore set forth may be assumed and exercised by the board at any time, upon its adoption of a resolution to so act, with notice thereof given in writing to the commissioner.

Section 6. (a) An applicant shall be qualified for a license to practice psychology provided he submits proof satisfactory to the board that:

(1) He is of acceptable moral character; and

(2) He is either (i) a graduate of an accredited college or university holding a degree of Doctor of Philosophy or Doctor of Education in psychology plus two years of post doctorate experience acceptable to the board, or (ii) a graduate of an accredited college or university holding a doctoral degree in a field related to psychology, provided his experience and training are acceptable to the board as being equivalent to the above, or (iii) a graduate of an accredited college or university holding a master's degree in psychology or another of the behavioral sciences plus four years of experience provided his education and experience are acceptable to the board; and

(3) He has passed an examination duly adopted by the board; and

(4) His application has been accompanied by an application fee of fifty dollars (\$50) or more as determined by the board, payable to the commissioner.

(b) Each applicant to the said board for examination or licensure shall have attached thereto the affidavit or affirmation of the applicant as to its verity. Any applicant who knowingly or wilfully makes a false statement of fact in his application shall be subject to prosecution for perjury.

(c) In case of failure at any examination, the applicant shall have, after the expiration of six months and within two years, the privilege of a second examination by the board without the payment of an additional fee. The board may adopt rules and procedures governing the eligibility of applicants who have failed to pass two examinations in order to be admitted to subsequent examinations.

Section 7. The qualifications provisions of section 6 shall not apply and a license shall be issued without examination to any applicant who has submitted an application for license accompanied by an application fee as specified by the board within two years from and after the effective date of this act and who is a resident of this State or who has practiced in the Commonwealth for a two-year period; and

(1) Who, on the effective date of this act, holds the Doctor of Philosophy or Doctor of Education degree in psychology or other equivalent doctoral degree from an accredited college or university acceptable to the board and has engaged in psychological practice acceptable to the board for two years, or

(2) Who, on the effective date of this act, holds a master's degree in psychology or another of the behavioral sciences from an accredited college or university plus four years of experience provided that his education and experience are acceptable to the board, or

(3) Who, on the effective date of this act, holds a permanent certificate as a public school psychologist in the Commonwealth of Pennsylvania.

Section 8. A license previously issued may be revoked, if the person licensed be:

(1) Convicted of a felony or enters a plea of guilty or nolo contendere thereto, or

(2) An habitual user of narcotics, or other habit-forming drugs, or

(3) An habitual drunkard, or

(4) Found guilty of the unethical practice of psychology as detailed by the code of ethical standards adopted by the board, or

(5) Found guilty of presenting false credentials or documents in support of his application for license.

Section 9. Any license under this act shall be automatically suspended upon the legal commitment to an institution of a licensee because of mental incompetency from any cause upon filing with the commissioner a certified copy of such commitment. Restoration of such license shall be made as hereinafter provided as in the case of revocation and suspension of licensure.

The Pennsylvania Board of Psychologist Examiners may for a definite or indefinite time, refuse, revoke or suspend a license for the use of any substance or the presence of any condition which impairs intellect or judgment to such an extent as to incapacitate for the performance of professional duties. The board may so act upon satisfactory proof of grossly unethical practice or of any form of pretense which might induce persons to become a prey to professional exploitation or for violation of the rules and regulations of the board.

Section 10. Any person who is licensed by the board or who is an applicant for examination for licensure by the board, against whom are preferred any of the charges for causing the revocation or suspension of license or for causing refusal of the right to be examined for licensure, shall be furnished by the board with a copy of the complaint and shall have a hearing before the board or by attorney, and witnesses may be examined by said board respecting the guilt or innocence of said accused.

At any hearing the psychologist or applicant shall have the right to appear personally and by counsel, to cross-examine witnesses appearing

against him, and to produce witnesses and evidence in his own defense. The board may subpoena witnesses and documentary evidence on its own behalf, and, if requested by the psychologist, shall subpoena witnesses and documents on his behalf. The board may administer oaths, examine witnesses and compel testimony. A record shall be made by the board, or under its direction, of such a hearing.

The revocation or suspension of the license of any person licensed by the board shall be removed when said narcotic drug or other habit-forming drug habit hereinbefore specified shall have been adjudged by the said board to be cured or overcome and said suspended licensee is deemed capable of practicing his profession. The revocation or suspension for any other cause of the license of any person licensed by the board may be removed at such time as it shall appear to the board to be just and proper to do so and upon any such removal of the revocation or suspension of license by the board, the name of any such person shall be restored and replaced upon the record in the office of the commissioner, by the board. Any action taken in regard to suspension or revocation of license, or removal of any suspension or revocation and the reinstatement of any licensee, must be by a four-fifths vote of the appointed members of the board.

Section 11. After eighteen months from the effective date of this act it shall be unlawful for any person to practice or attempt to offer to practice psychology, as defined in this act, without having at the time of so doing a valid, unexpired, unrevoked and unsuspended license issued under this act. The unlawful practice of psychology as defined in this act may be enjoined by the courts on petition of the board or by the commissioner. In any such proceeding it shall not be necessary to show that any person is individually injured by the actions complained of. If the respondent is found guilty of the unlawful practice of psychology, the court shall enjoin him from so practicing unless and until he has been duly licensed. Procedure in such cases shall be the same as in any other injunction suit. The remedy by injunction hereby given is in addition to criminal prosecution and punishment.

Section 12. The board may recommend the granting of a license without examination to any person who, at the time of application holds a valid license or certificate issued by a board of psychologist examiners of any state, provided in the opinion of the board, the requirements for such certification or licensure are substantially the equivalent of the requirements of this act, or at the time of application, holds a diploma awarded by the American Board of Examiners in Professional Psychology and upon payment of the fee specified by the board.

Section 13. A person licensed as a psychologist under the provisions of this act cannot, without the written consent of his client, be examined in a civil or criminal action as to any information acquired in the course of his professional services in behalf of the client. The confidential

relations and communication between a psychologist and his client are on the same basis as those provided by law between an attorney and client, and nothing in this act shall be construed to require any such privileged communication to be disclosed.

Section 14. If any section of this act, or any part thereof, shall be adjudged by any court of competent jurisdiction, to be invalid, such judgment shall not affect, impair or invalidate the remainder of any section or part thereof.

Section 15. Provision shall be made for renewal of licenses on a biennial basis. The fee for renewal of license shall be ten dollars (\$10) or more as specified by the board. A record of all psychologists licensed to practice in Pennsylvania shall be kept in the office of the commissioner. A duplicate record shall be kept by the board and published in such manner and interval as it deems necessary.

APPROVED—The 23rd day of March, A. D. 1972.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 52.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive style with a large initial "C" and "T".

*Secretary of the Commonwealth.*