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CHAPTER 55.

 PSYCHOLOGISTS

**SECTION 40‑55‑20.** State Board of Examiners in Psychology.

There is hereby created a State Board of Examiners in Psychology to be composed of three clinical psychologists, two counseling psychologists, one school psychologist, one psychologist who is licensed in experimental, social, industrial/organizational or community psychology, and one lay member.

**SECTION 40‑55‑30.** Appointment of members of Board; terms; vacancies.

All members of the Board shall be appointed by the Governor. The South Carolina Psychological Association, the South Carolina Academy of Professional Psychologists, the South Carolina Association of School Psychologists and any individual, group, or association may nominate qualified individuals to the Governor for his consideration. The Board shall publish widely in the State notice of all pending vacancies to the Board.

Members of the Board shall be appointed for terms of five years each and until their successors are appointed and qualify. No member of the Board shall be eligible for reappointment for a period of four years following the completion of his term.

Any vacancy shall be filled for the unexpired term only. The Governor may receive recommendations from any individual, group, or association for any vacancy.

**SECTION 40‑55‑30, unlike former SECTION 40‑9‑30 which was held unconstitutional as restricting Governor’s authority to appoint members to Board of Chiropractic Examiners to list of members of private organization, provides for submission to Governor of list of qualified candidates for appointment and there is nothing on face of statute which requires qualified candidate to be member of private body which compiles list and statute is therefore constitutional.** Hartzell v. State Bd. of Examiners in Psychology (S.C. 1980) 274 S.C. 502, 265 S.E.2d 265.

**SECTION 40‑55‑40.** Powers and duties of Board.

The Board shall:

(a) Annually elect a chairman and such other officers as it may deem necessary;

(b) Hold at least one regular meeting each year and such additional meetings as called by the chairman or upon written request of any two members;

(c) Adopt a seal which must be affixed to all licenses issued;

(d) Adopt from time to time such rules and regulations as it may deem necessary for the performance of its duties;

(e) Make an annual report according to the provisions of Chapter 73 of Title 40, Code of 1976; and

(f) Prescribe, pursuant to the Administrative Procedures Act, fees for application for examination, initial license, renewal of license, and late renewal.

Each member of the Board may receive for his services and expenses such per diem and mileage as is provided by law for members of state boards, commissions, and committees.

All revenues and income from licenses, examination fees, other fees, sale of commodities and services, and income derived from any board source or activity shall be remitted to the State Treasurer as collected, when practicable, but at least once each week, and shall be credited to the General Fund of the State. All assessments, fees, or licenses shall be levied in an amount sufficient to at least equal the amount appropriated in the annual general appropriation act for the board, plus any additional funds allocated by the Budget and Control Board for implementation of the State’s Personnel Compensation Plan.

**SECTION 40‑55‑50.** Acts constituting practice as psychologist.

(A) A person practices as a psychologist within the meaning of this chapter when that person holds himself or herself out as a psychologist or applies the principles, methods, or procedures of psychology in the conduct of any of the following activities:

(1) Assessment of individual, family, or group behavioral, emotional, and/or intellectual functioning for the purpose of one or more of the following:

(a) diagnosing mental disorders;

(b) identifying psychological or neuropsychological aspects of other dysfunctions, diseases, or disabilities;

(c) evaluating mental or emotional status including intelligence and aptitude;

(d) identifying personality characteristics;

(e) identifying psychological factors influencing well‑being;

(f) selecting, placing, or referring into treatments, programs, or settings;

(g) evaluating the effectiveness of treatments, programs, or settings;

(h) preventing mental disorders or maladaptive behavior related to other dysfunction, disease, or disability.

For purposes of this section, “assessment” refers to, but is not limited to, one or more of the following practices insofar as they involve the application of psychological principles, methods, or procedures: observation, description, testing, appraisal, evaluation, screening, test interpretation, interviewing, diagnosis of mental disorders, neuropsychological testing, psychological testing or evaluation or psycho‑educational testing or evaluation, or a combination of any of these for any of the purposes identified in this item.

(2) Engaging in a therapeutic relationship with an individual, family, or group for the purpose of one or more of the following:

(a) improving the quality of mental health or social adjustment, or both;

(b) reducing, preventing, modifying, or eliminating maladaptive or undesired behaviors, cognitions, emotions, or psychological or physical characteristics;

(c) treating diagnosed mental disorders, whether treatment is focused on behavioral manifestations of the disorder, the environmental context of the disorder, or underlying causal processes;

(d) improving individual performance;

(e) modifying cognitions, emotions, or behaviors, or a combination of these, in order to influence psychological well‑being;

(f) psychological research; or

(g) any combination of subitems (a) through (f).

For purposes of this section, a “therapeutic relationship”, except as provided for in Section 40‑55‑90, refers to, but is not limited to, one or more of the following practices insofar as they involve the application of psychological principles, methods, or procedures: psychotherapy, psychoanalysis, therapy, family therapy, marital therapy, couples therapy, play therapy, counseling, rehabilitation, intervention, hypnotherapy, biofeedback, behavior therapy, behavior modification, psychological counseling, human potential psychology, vocational counseling, school counseling, growth psychology, alcohol or substance abuse counseling, or both, or remediation, or a combination of any of these for any of the purposes identified in this item.

(3) Engaging in a psychological consulting relationship with an individual organization, group or community, or a combination of these, for the purpose of:

(a) designing or delivering psychological programs or services, or both;

(b) evaluating psychological programs or services.

For purposes of this section a “psychological consulting relationship” refers to, but is not limited to, one or more of the following practices insofar as they predominately involve the application of psychological principles, methods, or procedures: consulting, intervention, program evaluation, organizational psychology, environmental psychology, community psychology, and experimental psychology.

(B) A person not otherwise exempt from this chapter is engaged in the practice of psychology when performing any of the activities enumerated in subsection (A), regardless of whether or not payment is received for the services.

Specifically excluded from psychological practice within the meaning of this chapter are the physical, chemical, and nonbehavioral aspects of Chapter 47. Nothing in this chapter shall prohibit or limit a licensed physician in the practice of his profession as provided by law.

(C) A person is deemed to be practicing as a psychologist within the meaning of this chapter if the person engages in any of the activities enumerated in subsection (A) electronically within this State including, but not limited to, by means of the internet, phone lines, and personal computer modems.

**SECTION 40‑55‑55.** Licensure requirement.

It is unlawful for a person to engage in the practice of psychology in this State without obtaining a license from the board, except as otherwise authorized by this chapter.

**SECTION 40‑55‑60.** Code of ethics; limits of psychological practice; list of licensed psychologists.

The board may adopt the code of ethics for psychologists to govern the practices and conduct of psychologists licensed under this chapter. Whenever important aspects of a case fall outside the boundaries of the psychologist’s competence, the psychologist shall consult appropriate specialists. A psychologist may not attempt to diagnose, prescribe for, treat, or advise a client with reference to complaints which are outside the limits of psychological practice as determined by the board. The board shall determine areas of specialization of the applicant to practice psychology and inform the applicant of its decision. The board shall publish a list of licensed psychologists which indicates areas of practice authorized by the board.

**SECTION 40‑55‑70.** Use of titles incorporating word “psychologist,” or similar words; activities of unlicensed persons which are not prohibited.

It shall be unlawful for any person not licensed under this chapter to present himself or be presented to the public by any title incorporating the name “psychologist,” “psychological,” or “psychology,” except that any psychological scientist employed by a recognized research laboratory, school, college, university, or governmental agency may represent himself by the academic or research title conferred by the administration of such firm, institution or agency; and except that a person may represent himself or have himself represented as a psychologist, providing he is a member of the American Psychological Association or of a regional association affiliated therewith or is eligible for such membership. Provided, nothing in this section shall be construed as permitting such persons to offer their services to the public or to accept remuneration for psychological services rendered to persons or organizations other than those firms, institutions or agencies from which they receive their salaries unless they have been licensed under this chapter. Provided, further, psychologists may receive fees for lectures presented outside their regular employment setting without being licensed.

Visiting lecturers from other states may also employ their academic or research titles or the designation “psychologist” providing that they are members of or eligible for membership in professional associations as stated in this section. Students of psychology, psychology interns and other persons preparing for the profession of psychologist in recognized training institutions or facilities may be designated by titles such as “psychological trainee,” “psychological intern,” and other terms clearly indicating their training status. Psychologically trained individuals who do not meet requirements for licensing as provided in Section 40‑55‑80 are permitted to render psychological services when under the direct supervision of a licensed psychologist who assumes professional responsibility for the competence of services rendered and who keeps the Board informed of the nature and extent of such services under his supervision.

**SECTION 40‑55‑80.** Application for license; qualifications of applicants.

To be licensed as a psychologist a person shall make application to the Board of Examiners in Psychology upon forms and in such manner as prescribed by the board. A candidate for licensure shall furnish the board with:

(1) references of individuals having personal knowledge of the candidate’s professional experience and competency and the board may not require more than three references unless there are mitigating circumstances;

(2) satisfactory evidence that the candidate has obtained a doctoral degree in psychology from:

(a) an institution of higher education that is:

(i) regionally accredited by an accrediting body recognized by the United States Department of Education; or

(ii) authorized by provincial statute or royal charter to grant doctoral degrees; and

(b) a program accredited by the American Psychological Association or the Canadian Psychological Association or designated as a psychology program by the designation committee of the National Register of Health Service Providers in Psychology and the Association of State and Provincial Psychology Boards (ASPPB); or

(c) an institution of higher education that is:

(i) regionally accredited by an accrediting body recognized by the United States Department of Education; or

(ii) authorized by provincial statute or royal charter to grant doctoral degrees; and

(d) a program that includes at least three years of full‑time graduate study not including predoctoral internship as specified in the ASPPB Agreement of Reciprocity and includes instruction in the scientific and professional subject areas specified by the ASPPB Agreement of Reciprocity. Competence must be demonstrated by appropriate course work in each content area as determined by the Board of Examiners in Psychology;

(3) satisfactory evidence that the candidate is competent in psychology as shown by passing written and oral examinations as required by the board;

(4) satisfactory evidence that the candidate has completed two years of supervised experience as approved by the board and specified in the ASPPB Agreement of Reciprocity;

(5) satisfactory evidence that the candidate has not engaged in unethical practices;

(6) satisfactory evidence that the candidate has not within the preceding six months failed an examination given by the board;

(7) a copy of a criminal history record if the applicant has been convicted or plead guilty or nolo contendere to any criminal offense excluding traffic violations; and

(8) documentation of any disciplinary action taken against the applicant while the applicant was participating in a psychology internship program or other psychology‑related training program, or during previous psychology‑related employment.

**SECTION 40‑55‑85.** Board to promulgate regulations for continuing education requirements.

The board shall promulgate regulations in accordance with the provisions of Chapter 23 of Title 1 (Administrative Procedures Act) implementing the requirements for continuing education which must be met by each person licensed as a psychologist under the provisions of this chapter. Each applicant for license renewal shall present evidence satisfactory to the board that he has met the continuing education requirements as set by the regulations.

**SECTION 40‑55‑90.** Exemptions.

(A) This chapter does not require these persons to obtain a license pursuant to this chapter:

(1) a licensed member of another profession who is regulated by the Department of Labor, Licensing and Regulation and who is rendering services of a psychological nature, if the person:

(a) is acting within the scope of practice, as set out by the law regulating the practice;

(b) acts in a manner consistent with the code of ethics of the respective profession; and

(c) does not represent himself to be a psychologist or his services to be psychological;

(2) a member of the clergy of an organized religious society or denomination functioning in a ministerial capacity, if the person does not represent himself to be a psychologist or his services to be psychological;

(3) a matriculated intern or student, enrolled in a recognized training program engaging in activities defined as the practice of psychology if the intern or student does not represent himself by the title of “psychologist”; however, the intern or student may refer to himself as “psychology‑trainee”, “psychology‑intern”, or “psychology‑resident”, if performing activities under the supervision of a psychologist licensed in this State, in accordance with regulations promulgated by the board;

(4) an individual pursuing board approved postdoctoral training or experience in professional psychology who is performing appropriately supervised activities;

(5) a person certified as a school psychologist by the South Carolina Department of Education if the person’s practice is restricted to regularly salaried employment within a setting under the purview of the South Carolina Department of Education and as specified by the terms of employment. This person may not describe himself or his services by any title or description which states or implies that the person holds a license as otherwise required by this chapter;

(6) a person certified as a school psychologist by the South Carolina Department of Education who provides contract services of a psychological nature to public schools or private schools or any federal or state agency as authorized by the certification. This person may not describe himself or his services by any title or description which states or implies that the person holds a license as otherwise required by this chapter;

(7) a person certified as a school guidance counselor or social worker by the South Carolina Department of Education who provides counseling services or school social work services consistent with the person’s certification and training and as specified by the terms of employment. Such practice is restricted to regularly salaried employment within a setting under the purview of the South Carolina Department of Education. This person may not describe himself or his services by any title or description which states or implies that the person holds a license as otherwise required by this chapter;

(8) a person employed by a private school as a guidance counselor or social worker who provides services consistent with the person’s training. This person may not describe himself or his services by any title or description which states or implies that the person holds a license as otherwise required by this chapter;

(9) a government employee of this State or a federal government employee providing services of a psychological nature within the scope of employment. This person may not describe himself or his services by any title or description which states or implies that the person holds a license as otherwise required by this chapter;

(10) a South Carolina Department of Alcohol and Other Drug Abuse Services employee who:

(a) holds a certification credential from the South Carolina Association of Alcohol and Drug Abuse Counselors or is a counselor in the process of obtaining such a credential who is currently under the supervision of a South Carolina Association of Alcohol and Drug Abuse Counselors’ certified counselor;

(b) is employed in a position that is directly or indirectly funded through the South Carolina Department of Alcohol and Other Drug Abuse Services or its local contract providers; and

(c) provides services of a psychological nature within the scope of his or her employment but does not in any way describe himself or herself or his or her services by any title or description which states or implies that he or she holds a license as otherwise required by this chapter;

(11) a college student personnel counselor in an accredited college or university performing services consistent with the person’s training and occupational role in the institution. This person may not describe himself or his services by any title or description which states or implies that the person holds a license as otherwise required by this chapter;

(12) an individual including, but not limited to, an educator, day care provider, hospital worker, member of a police or fire department, or other community worker providing, within the person’s normal scope of employment, emotional support, guidance, nurturance, or crisis management intervention to persons in need;

(13) a person employed by any entity whose professional employment is funded through an agency of the State and who provides services of a psychological nature within the scope of employment if the person does not describe himself or his services by any title or description which states or implies that the person holds a license as otherwise required by this chapter;

(14) a registered nurse.

(B) Nothing in this chapter is intended to prevent an individual from providing, on a voluntary basis, emotional support, nurturance, or crisis management intervention to persons in need.

(C) This chapter is for the regulation of the practice of psychology only and does not prevent human resource professionals, business consultants, and other persons from providing advice and counseling in their organizations or affiliated groups or to their companies and employees of their companies or from engaging in activities performed in the course of their employment.

**SECTION 40‑55‑100.** Examinations.

Examinations of applicants for a license to practice psychology shall be conducted by the Board at least once a year. The examinations shall be written or oral or both. 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 establish a passing score for the written examination. A candidate shall be held to have passed the oral examination upon the affirmative vote of a majority of board members currently serving. Any unsuccessful candidate shall receive written evaluation of his performance on the oral examination.

**SECTION 40‑55‑110.** Waiver of examination.

At its discretion the Board may at any time waive the assembled examination and grant the appropriate license upon payment of the required fee to any person who meets the requirement of Section 40‑55‑80 and who is qualified by educational and professional attainments to the satisfaction of the Board if it deems such action to be in the public interest. The Board may also in its discretion grant a license 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, or who has been practicing psychology in another state and has qualifications not lower than those required by this chapter, and is able to satisfy the Board that to grant him a license would be in the public interest, or who has been certified by the American Board of Examiners in Professional Psychology. A person or firm of consultants not licensed in this State and nonresidents of this State who wishes to perform practices under the provisions of this chapter for a period not to exceed sixty days within a calendar year, must petition the Board for a temporary permit to perform such practices. If the petitioner is licensed or certified in another state deemed by the Board to have standards equivalent to those set forth in this chapter, a permit will be issued for a fee to be fixed by the Board.

**SECTION 40‑55‑120.** Statement of patient rights and procedures for complaints.

All psychologists subject to this chapter must provide patients with a statement of their rights and procedures to file a complaint as prescribed by the board.

**SECTION 40‑55‑130.** Complaint to Board against licensed psychologist; investigation; accusation; notice; hearing; confidentiality of proceedings; privileged communications.

(A) The board shall receive complaints by any person against a licensed psychologist. Upon receipt of a complaint the chairman or the chairman’s designee shall investigate the allegations of the complaint and make a report to the board concerning the investigation. If the board proceeds further, it may file a formal accusation charging the psychologist with a violation of a provision of this chapter. The accusation must be signed by the chairman or other officer on behalf of the board. When the accusation is filed, and the board sets a date for a hearing, the chairman shall notify the accused in writing, not less than thirty days before the hearing date, of the date fixed for the hearing and a true copy of the accusation must be attached to the notice. The accused may appear and show cause why his license should not be suspended, revoked, or restricted. The accused has the right to be confronted with and to cross‑examine the witnesses against him and has the right to counsel. In instances where a board member has made the initial investigation of a complaint, the board member shall not sit with the board at the hearing of that complaint.

(B) Notice required by subsection (A) must be sent to the accused by certified mail, return receipt requested, directed to the last mailing address furnished to the board. The post office registration receipt signed by the accused, the accused’s agent, or a responsible member of the accused’s household or office staff or if not accepted by the person to whom addressed, the postal authority’s stamp showing the notice “Refused”, is prima facie evidence of service of the notice.

(C) All investigations and proceedings undertaken under the provisions of this chapter are confidential.

(D) Every communication, whether oral or written, made by or on behalf of a complainant to the board or its agents, or to a hearing panel or member of a hearing panel, pursuant to this section whether by way of complaint or testimony, is privileged; and no action or proceeding, civil or criminal, may be brought against a person by whom or on whose behalf the communication was made.

**SECTION 40‑55‑140.** Immunity of Board members, officers and employees for official acts; administration of oaths; subpoena power; final orders.

No member of the board, or its committees, special examiners, agents and employees shall be held liable for acts performed in the course of official duties except where actual malice is shown. For the purpose of any investigation or proceeding under the provisions of this chapter, the board or any person designated by it may administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any documents or records which the board deems relevant to the inquiry. In the case of contumacy by, or refusal to obey a subpoena issued to any person, an administrative law judge as provided under Article 5 of Chapter 23 of Title 1, may issue an order requiring the person to appear before the board or the person designated by it and produce documentary evidence and to give other evidence concerning the matter under inquiry.

Any final order of the board finding that a psychologist is guilty of any offense charged in a formal accusation shall become public knowledge except for a final order dismissing the accusation or determining that a private reprimand is in order. All final orders which are made public shall be mailed to local and state psychological associations, and all hospitals with which the respondent is associated, states where the psychologist has a license as known to the board, and to any other source that the board wishes to furnish this information.

**SECTION 40‑55‑150.** Revocation or suspension of license or other disciplinary action; grounds.

(A) The board may revoke, suspend, or restrict the license or permit of a psychologist or reprimand a psychologist when it is established that the psychologist is guilty of misconduct. Misconduct is a satisfactory showing to the board that a license or permit holder:

(1) has used a false, fraudulent, or forged statement or document or has practiced a fraudulent, deceitful, or dishonest act in connection with a license requirement;

(2) has been convicted of a felony or other crime involving moral turpitude. Forfeiture of a bond or a plea of nolo contendere must be considered the equivalent of a conviction;

(3) practiced psychology while under the influence of alcohol or drugs to such a degree as to adversely affect the license or permit holder’s ability to practice psychology;

(4) uses alcohol or drugs to such a degree as to adversely affect the license or permit holder’s ability to practice psychology;

(5) has knowingly performed an act which in any way assists a person to practice psychology illegally;

(6) has caused to be published or circulated directly or indirectly a fraudulent, false, or misleading statement as to the skill or methods of practice of a psychologist;

(7) has sustained physical or mental impairment or disability which renders further practice by the license or permit holder dangerous to the public;

(8) has violated the principles of ethics as adopted by the board and published in its regulations;

(9) has engaged in conduct that is deceptive, fraudulent, or harmful to the public;

(10) is guilty of obtaining fees or assisting in obtaining fees under deceptive, false, or fraudulent circumstances;

(11) is guilty of the use of an intentionally false or fraudulent statement in a document connected with the practice of psychology;

(12) has been found by the board to lack the professional competence to practice psychology;

(13) has violated a provision of this chapter regulating the practice of psychology.

(B) In addition to all other remedies and actions incorporated in this chapter, the license of a psychologist adjudged mentally incompetent by a court of competent jurisdiction must be automatically suspended by the board until the psychologist is adjudged by a court of competent jurisdiction or in any other manner provided by law as being restored to mental competency.

**SECTION 40‑55‑160.** Disciplinary action by Board; administrative review.

If the board shall be satisfied that the psychologist is guilty of any offense charged in the formal accusation provided for in this chapter, it shall thereupon revoke or suspend his license, reprimand, or otherwise take any other reasonable action short of revocation or suspension, such as requiring the licensee to undertake additional professional training subject to the direction and supervision of the board. The board may also impose such restraint upon the licensee as circumstances warrant until the licensee demonstrates to the board adequate professional competence. In all cases where disciplinary action is taken by the board, written notice of such action shall then be mailed by the secretary of the board to the accused at his last known address as provided to the board.

Any decision by the board to revoke, suspend, or otherwise restrict the license shall be by majority vote and shall be subject to review by an administrative law judge as provided under Article 5 of Chapter 23 of Title 1 upon petition filed by the licensee with an administrative law judge thereof served upon the secretary of the board within thirty days from the date of delivery of the board’s decision to the licensee. Such review shall be limited to the record established by the board’s hearing.

**SECTION 40‑55‑170.** Penalties; injunctions.

(A) A person who practices or offers to practice psychology without being licensed as required by this chapter is guilty of a felony and, upon conviction, must be fined not more than fifty thousand dollars or imprisoned not more than one year. Upon reasonable investigation, the board shall refer all complaints which involve possible criminal violations of this chapter to the solicitor in the county where the violation occurred. A resident of the county in which a violation occurred may initiate injunction procedures to prevent the violation from continuing.

(B) Pursuant to Section 40‑1‑210, the board may in its own name maintain a suit for an injunction against a person who violates a provision of this chapter. The suit must be commenced and prosecuted before an administrative law judge as provided under Article 5, Chapter 23, Title 1. An injunction may be issued without proof of actual damage sustained by a person. An injunction may be issued in addition to any other sanctions provided for in this chapter and the injunction does not relieve a person from criminal prosecution as provided for in subsection (A). The South Carolina Department of Labor, Licensing and Regulation shall, if requested by the board, represent the board in connection with legal proceedings undertaken pursuant to this chapter.

**SECTION 40‑55‑180.** Areas of specialization.

The board shall determine areas of specialization of the applicant to practice psychology from one or more of the following areas: (1) clinical, (2) counseling, (3) industrial/organizational, (4) community, (5) school, (6) social, and (7) experimental psychology. The Board shall inform the applicant of its decision and instruct the applicant to limit his professional activity and advertisement to the area assigned him.

**SECTION 40‑55‑190.** Health insurer not required to provide or pay for services.

Nothing in this chapter may be construed to require a health maintenance organization, a self‑funded plan, an accident and health insurer, or any other third party payor to provide services or to pay for services provided for in this chapter. If payment or reimbursement for these services is provided by a health maintenance organization, a self‑funded plan, an accident and health insurer, or any other third party payor, the provisions of Section 38‑71‑200 apply.