

Regular Session, 2014

SENATE BILL NO. 157

BY SENATOR MARTINY

PSYCHOLOGISTS. Provides for the provisional licensure of psychologists by the State Board of Examiners of Psychologists. (8/1/14)

1 AN ACT
2 To amend and reenact R.S. 37:2354(A), (B), (C), and (D), the introductory paragraph of R.S.
3 37:2359(B), and 2359(C), (D), (E), (F), and (G) and to enact R.S. 37:2356.2 and
4 2359(B)(15), relative to the State Board of Examiners of Psychologists; to provide
5 for a provisional license for psychologists; to provide for fees; to provide for the
6 renewal of a provisional license; to provide for qualifications; to provide for
7 continuing education; to provide the denial, revocation, or suspension of a
8 provisional license; to provide for conditions, terms, and procedures; and to provide
9 for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 37:2354(A), (B), (C), and (D), the introductory paragraph of R.S.
12 37:2359(B), and 2359(C), (D), (E), (F), and (G) are hereby amended and reenacted and R.S.
13 37:2356.2 and 2359(B)(15) are hereby enacted to read as follows:

14 §2354. Fees

15 A. All monies received by the board under this Chapter shall be paid into the
16 treasury of the State Board of Examiners of Psychologists and may be expended by
17 the board without appropriation for costs of administration and other expenses, and

1 any surplus at the end of a fiscal year or a biennium may be retained by the board for
2 future expenditures and the board is not required to pay any such surplus into the
3 general fund of the state of Louisiana.

4 B.(1) The board shall charge an application fee to all applicants for licensure.
5 The board may also charge a written examination fee and an oral examination fee.
6 A hearing fee may also be charged at the discretion of the board. The board shall
7 establish a reasonable fee schedule in conformity with the provisions of the
8 Administrative Procedure Act, R.S. 49:950 et seq.

9 **(2) The board shall charge to any person who applies for a provisional**
10 **license an application fee in an amount not to exceed two hundred dollars. The**
11 **board shall adopt rules in accordance with the Administrative Procedure Act**
12 **to implement the provisions of this Paragraph.**

13 C.(1) Every licensed psychologist in this state shall annually pay to the board
14 during the month of July of each year, beginning in the year immediately subsequent
15 to his initial license, a renewal fee to be determined annually by the board. The
16 license of any psychologist who shall fail to have his license renewed during the
17 month of July in each and every year shall lapse; the failure to renew said license,
18 however, shall not deprive said psychologist of the right of renewal thereafter. Such
19 lapsed license may be renewed, within a period of two years after such lapse, upon
20 payment of a reinstatement fee equal to the current application fee and the current
21 renewal fee.

22 **(2)(a) Every provisionally licensed psychologist shall annually pay to the**
23 **board during the month of July of each year, beginning in the year immediately**
24 **subsequent to his initial provisional license, a renewal fee in an amount not to**
25 **exceed one hundred dollars. The provisional license of any psychologist who**
26 **shall fail to have his license renewed during the month of July shall lapse.**
27 **Except as provided in R.S. 37:2356.2(C), a provisional license shall not be**
28 **reinstated.**

29 **(b) The board shall adopt rules in accordance with the Administrative**

Procedure Act to implement the provisions of this Paragraph.

D. The board shall annually send a renewal notice to all psychologists licensed **or provisionally licensed** by the board.

* * *

§2356.2. Provisional licensed psychologist; renewal; continuing education

A. The board shall issue a provisional license to each person who files an application with the board upon a form and in such a manner as the board prescribes, submits the fee for a provisional license, and furnishes evidence to the board that the person meets all the following requirements:

(1) Is at least twenty-one years of age.

(2) Is of good moral character.

(3) Is a citizen of the United States or has declared his intention to become a citizen. A statement by the person under oath that he is a citizen or that he intends to apply for citizenship when he becomes eligible to make such application shall be sufficient proof of compliance with this requirement.

(4) Is not in violation of any of the provisions of this Chapter and the rules and regulations adopted by the board.

(5) Holds a doctoral degree with a major in psychology from a school or college as defined in this Chapter.

(6) Has a minimum of one year experience practicing psychology under the supervision of a psychologist or substantially equivalent as defined in the rules and regulations of the board and required as part of the doctoral degree in psychology as defined by the board.

(7) Demonstrates professional knowledge of laws and rules regarding the practice of psychology in Louisiana.

B. If the board reasonably believes that a person applying for a provisional license or for renewal of a provisional license is not physically or mentally competent to render psychological services with reasonable skill and safety to his patients, or is afflicted with a disease or condition, either physical

1 or mental, which would impair his competency to render psychological services,
 2 the board may request the person to submit to a physical examination by a
 3 medical doctor approved by the board or submit to a mental health examination
 4 by a psychologist or psychiatrist approved by the board. If the person refuses
 5 to submit to the examination, the board, after a contradictory hearing and upon
 6 finding reasonable cause, may issue an order requiring the person to submit to
 7 the examination. A person who is ordered to submit to an examination shall not
 8 be eligible for a provisional licensure or renewal of a provisional license prior
 9 to such examination. Proceedings under this Subsection shall be conducted in
 10 compliance with the Administrative Procedure Act.

11 C.(1) A person provisionally licensed as a psychologist under the
 12 provisions of this Section shall be eligible for renewal of licensure without
 13 regard to any subsequent changes in the requirements for licensure upon
 14 payments of the fees established under R.S. 37:2354 and compliance with the
 15 requirements established pursuant to this Subsection. A provisional license
 16 may be renewed a maximum of three times.

17 (2) The board shall establish continuing education requirements to be
 18 fulfilled prior to the renewal of a provisional license. Failure to fulfill these
 19 requirements shall cause the license to lapse. A provisional license shall not be
 20 reinstated if a lapse occurs unless such requirements are satisfied within six
 21 months from the date of lapse.

22 D. The board may adopt rules and regulations in accordance with the
 23 Administrative Procedure Act to administer and implement the provisions of
 24 this Section.

25 * * *

26 §2359. Denial, revocation, or suspension of license; **provisional license**

27 * * *

28 B. The board shall have the power and duty to suspend, place on probation,
 29 require remediation for a specified time, revoke any license to practice psychology

1 **or any provisional license to practice psychology issued by the board,** or take any
2 other action specified in the rules and regulations whenever the board, by affirmative
3 vote of at least four of its five members, shall find by a preponderance of the
4 evidence that a psychologist **or a provisionally licensed psychologist** has engaged
5 in any of the following acts or offenses:

6 * * *

7 **(15) Failure to comply with mandatory reporter laws.**

8 C. Proceedings for disciplinary action or for the denial or withholding of a
9 license **or provisional license** under the authority of this Section shall be conducted
10 in compliance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.
11 The board may require a person against whom disciplinary action has been taken by
12 the board after hearing to pay reasonable costs of the proceedings incurred by the
13 board for hearing and any judicial review, including attorney, stenographer, and
14 witness fees. These costs shall be paid no later than thirty days after the adjudication
15 by the board becomes final. No license **or provisional license** shall be issued,
16 reinstated, or renewed until such costs have been paid.

17 D. The board may deny or withhold for a specified time not to exceed two
18 years the granting of a license **or provisional license** to any applicant or candidate
19 who has committed any of the acts or offenses set forth in Subsection B.

20 E. Suspension by the board of the license of a psychologist **or a provisional**
21 **license of a psychologist** shall be for a period not exceeding two years.

22 F. A person who has been refused a license **or provisional license**, or whose
23 license has been revoked, under the provisions of this Section, may reapply for
24 licensure after more than two years have elapsed from the date such denial or
25 revocation is legally effective.

26 G. The board shall notify all licensed psychologists of any disciplinary action
27 taken against a licensed psychologist **and a provisionally licensed psychologist.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michelle Ducharme.

DIGEST

Martiny (SB 157)

Present law authorizes the State Board of Examiners of Psychologists (board) to license and regulate psychologists in the state.

Proposed law authorizes the board to issue a provisional license to an applicant who meets certain requirements and pays an application fee in an amount not to exceed \$200.

Proposed law provides that the board shall issue a provisional license to each person who files an application with the board upon a form and in such a manner as the board prescribes, submits the fee for a provisional license, and furnishes evidence to the board that the person meets all the following requirements:

- (1) Is at least 21 years of age.
- (2) Is of good moral character.
- (3) Is a citizen of the United States or has declared his intention to become a citizen.
- (4) Is not in violation of certain laws and the rules and regulations adopted by the board.
- (5) Holds a doctoral degree with a major in psychology from a school or college.
- (6) Has a minimum of one year experience practicing psychology under the supervision of a psychologist or substantially equivalent as defined in the rules and regulations of the board and required as part of the doctoral degree in psychology as defined by the board.
- (7) Demonstrates professional knowledge of laws and rules regarding the practice of psychology in Louisiana.

Proposed law provides that if the board reasonably believes that a person applying for a provisional license or for renewal of a provisional license is not physically or mentally competent to render psychological services with reasonable skill and safety to his patients, or is afflicted with a disease or condition, either physical or mental, which would impair his competency to render psychological services, the board may request the person to submit to a physical examination by a medical doctor approved by the board or submit to a mental health examination by a psychologist or psychiatrist approved by the board. Proposed law provides that if the person refuses to submit to the examination, the board, after a contradictory hearing and upon finding reasonable cause, may issue an order requiring the person to submit to the examination. A person who is ordered to submit to an examination shall not be eligible for a provisional licensure or renewal of a provisional license prior to such examination. The provisions of proposed law shall be conducted in compliance with the Administrative Procedure Act.

Proposed law provides that a person provisionally licensed as a psychologist shall be eligible for renewal of licensure without regard to any subsequent changes in the requirements for licensure upon payments of the fees established by proposed law and compliance with the requirements established by proposed law.

Proposed law provides for the renewal of a provisional license. A provisional license may only be renewed three times and each licensee shall pay a renewal fee in an amount not to exceed \$100.

Proposed law limits the amount of times a provisional license may be renewed to a maximum of three times.

Proposed law requires the board to establish continuing education requirements that must be fulfilled prior to the renewal of a provisional license. Proposed law provides that failure to fulfill these requirements shall cause the license to lapse and shall not be reinstated unless the continuing education requirements are satisfied within six months from the date the license lapsed.

Proposed law authorizes the board to adopt rules and regulations in accordance with the Administrative Procedure Act to administer and implement the provisions of proposed law.

Present law provides that the board may suspend, place on probation, require remediation for a specific time, revoke any license to practice psychology, or take any action specified in the rules and regulations whenever the board, by affirmative vote of at least four of its five members, finds by a preponderance of the evidence that a psychologist has engaged in any of the following acts:

- (1) Fraud or deception in applying for or procuring a license to practice psychology.
- (2) Practicing psychology in such a manner as to endanger the welfare of clients or patients.
- (3) Conviction of a felony. A copy of the record of conviction, certified by the clerk of the court entering the conviction, shall be conclusive evidence.
- (4) Conviction of any crime or offense which reflects the inability of the practitioner to practice psychology with due regard for the health and safety of clients or patients.
- (5) Use of repeated untruthful, deceptive, or improbable statements concerning the licensee's qualifications or the effects or results of proposed treatment, including functioning outside of one's professional competence established by education, training, and experience.
- (6) Aiding or abetting the practice of psychology by any person not licensed by the board and in violation of law.
- (7) Conviction of fraud in filing Medicare or Medicaid claims or in filing claims to any third party payor.
- (8) Exercising undue influence in such a manner as to exploit the client or patient for financial or other personal advantage to the practitioner or a third party.
- (9) The suspension or revocation by another state of a license to practice psychology. A certified copy of the record of suspension or revocation of the state making such a suspension or revocation shall be conclusive evidence thereof.
- (10) Refusal to appear before the board after having been ordered to do so in writing by a duly authorized agent of the board.
- (11) Making any fraudulent or untrue statement to the board.
- (12) Violation of the code of ethics adopted in the rules and regulations of the board or other immoral, unprofessional, or dishonorable conduct as defined in the rules and regulations of the board.
- (13) Inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or

any other substance, or as a result of any mental or physical condition.

- (14) Violation of certain provisions of law or of the rules and regulations promulgated by the board thereunder.

Proposed law retains present law and authorizes the board to suspend, place on probation, require remediation for a specified time, revoke any provisional license and adds that a license or provisional license may be subject to the provisions of present law for failure to comply with mandatory reporter laws.

Present law provides that proceedings for disciplinary action or for the denial or withholding of a license shall be conducted in compliance with the Administrative Procedure Act.

Proposed law retains present law and provides that proceedings for disciplinary action or for the denial or withholding of a provisional license shall be conducted in compliance with the Administrative Procedure Act.

Present law provides that the board may require a person against whom disciplinary action has been taken by the board after hearing to pay reasonable costs of the proceedings incurred by the board for hearing and any judicial review, including attorney, stenographer, and witness fees. Present law provides that such costs shall be paid no later than thirty days after the adjudication by the board becomes final and that no license be issued, reinstated, or renewed until such costs have been paid.

Proposed law retains present law and provides that a provisional license shall not be issued, reinstated, or renewed until such costs have been paid.

Present law provides that the board may deny or withhold for a specified time not to exceed two years the granting of a license to any applicant or candidate who has committed any of the acts listed in present law.

Proposed law retains present law and provides that the board may deny or withhold for a specified time not to exceed two years the granting of a provisional license to any applicant or candidate who has committed any of the acts listed in present law.

Present law provides that license suspension shall be for a period not to exceed two years.

Proposed law retains present law and provides that the suspension of a provisional license shall be for a period not to exceed two years.

Present law provides that the board shall notify all licensed psychologists of any disciplinary action taken against a licensed psychologist.

Proposed law retains present law and requires the board to notify all licensed psychologists of any disciplinary action taken against a provisionally licensed psychologist.

Effective August 1, 2014.

(Amends R.S. 37:2354(A), (B), (C), and (D), 2359(B)(intro para), and 2359(C), (D), (E), (F), and (G); adds R.S. 37:2356.2 and 2359(B)(15))