

§7600. Introduction.

This article applies to the profession and practice of psychology and to the use of the title "psychologist". The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§7601. Practice of Psychology and Use of the title "psychologist".

Only a person licensed or otherwise authorized under this article shall be authorized to practice psychology or to use the title "psychologist" or to describe his or her services by use of the words "psychologist", "psychology" or "psychological" in connection with his or her practice.

§7601-a. Definition of the practice of psychology.

1. The practice of psychology is the observation, description, evaluation, interpretation, and modification of behavior for the purpose of preventing or eliminating symptomatic, maladaptive or undesired behavior; enhancing interpersonal relationships, personal, group or organizational effectiveness and work and/or life adjustment; and improving behavioral health and/or mental health. The practice includes, but is not limited to psychological (including neuropsychological) testing and counseling; psychoanalysis; psychotherapy; the diagnosis and treatment of mental, nervous, emotional, cognitive or behavioral disorders, disabilities, ailments or illnesses, alcoholism, substance abuse, disorders of habit or conduct, the psychological aspects of physical illness, accident, injury or disability, psychological aspects of learning (including learning disorders); and the use of accepted classification systems.
 2. The term "diagnosis and treatment" means the appropriate psychological diagnosis and the ordering or providing of treatment according to need. Treatment includes, but is not limited to counseling, psychotherapy, marital or family therapy, psychoanalysis, and other psychological interventions, including verbal, behavioral, or other appropriate means as defined in regulations promulgated by the commissioner.
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§7602. State board for psychology.

A state board for psychology shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than eleven psychologists licensed in this state. An executive secretary to the board shall be appointed by the board of regents upon the recommendation of the commissioner and shall be a psychologist, licensed in this state.

§7603. Requirements for a professional license.

To qualify for a license as a psychologist, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;
2. Education: have received an education, including a doctoral degree in psychology, granted on the basis of completion of a program of psychology registered with the department or the substantial equivalent thereof, in accordance with the commissioner's regulations;
3. Experience: have two years of supervised employment or engagement in appropriate psychology activities satisfactory to the board and in accordance with the commissioner's regulations. Satisfactory experience obtained in an entity operating pursuant to a waiver issued by the department pursuant to section sixty-five hundred three-a of this title may be accepted by the department, notwithstanding that such experience may have been obtained prior to the effective date of such section sixty-five hundred three-a and/or prior to the entity having obtained a waiver. The department may, for good cause shown, accept satisfactory experience that was obtained in a setting that would have been eligible for a waiver but which has not obtained a waiver with the department or experience that was obtained in good faith by the applicant under the belief that appropriate authorization had been obtained for the experience, provided that such experience meets all other requirements for acceptable experience;
4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;
5. Age: be at least twenty-one years of age;
6. Citizenship: meet no requirement as to United States citizenship;
7. Character: be of good moral character as determined by the department; and
8. Fees: pay a fee of one hundred seventy dollars to the department for admission to a department conducted examination and for an initial license, a fee of eighty-five dollars for each reexamination, a fee of one hundred fifteen dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of one hundred fifty-five dollars for each triennial registration period.

§7604. Limited permits.

- 1. On recommendation of the board, the department may issue a limited permit to practice as psychologist to an applicant holding a certificate or license to practice

psychology issued by another state or country, and whose qualifications have been approved for admission to the examination for a license as psychologist and who has resided in this state for a period of not more than six months prior to the filing of such application. The limited permit shall be valid for a period of not more than twelve months, or until ten days after notification to the applicant of failure of the professional licensing examination or until the results of a licensing examination for which the applicant is eligible are officially released, whichever comes first.

- 1-a. On the recommendation of the board, the department may issue a limited permit valid for an aggregate of three years to a person who has completed the doctoral dissertation and other doctoral degree requirements and is gaining supervised experience to meet the experience requirements for licensure. This permit may be re-issued for a maximum period of one year for good cause, as determined by the department.
- 2. Fees. The fee for each limited permit shall be seventy dollars.

§7605. Exempt persons.

Nothing in this article shall be construed to affect or prevent:

1. *The activities, services, and use of the title of psychologist, or any derivation thereof, on the part of a person in the employ of a federal, state, county or municipal agency, or other political subdivision, or a chartered elementary or secondary school or degree-granting educational institution insofar as such activities and services are a part of the duties of his salaried position; or on the part of a person in the employ as a certified school psychologist on a full-time or part-time salary basis, which may include on an hourly, weekly, or monthly basis, or on a fee for evaluation services basis provided that such person employed as a certified school psychologist is employed by and under the dominion and control of a preschool special education program approved pursuant to paragraph b of subdivision nine or subdivision nine-a of section forty-four hundred ten of this chapter to provide activities, services and to use the title "certified school psychologist", so long as this shall not be construed to permit the use of the title "licensed psychologist", to students enrolled in such approved program or to conduct a multidisciplinary evaluation of a preschool child having or suspected of having a disability; or on the part of a person in the employ as a certified school psychologist on a full-time or part-time salary basis, which may include on an hourly, weekly or monthly basis, or on a fee for evaluation services basis provided that such person employed as a certified school psychologist is employed by and under the dominion and control of an agency approved in accordance with title two-A of article twenty-five of the public health law to deliver early intervention program multidisciplinary evaluations, service coordination services and early intervention program services, where each such preschool special education program or early intervention provider is authorized by paragraph a or b of subdivision six of section sixty-five hundred three of this title, each in the course of their employment. Nothing in this subdivision shall be construed to authorize a certified school psychologist or group of such school psychologists to engage in independent

practice or practice outside of an employment relationship.

***NB Effective until June 30, 2022.**

1. *The activities, services, and use of the title of psychologist, or any derivation thereof, on the part of a person in the employ of a federal, state, county or municipal agency, or other political subdivision, or a chartered elementary or secondary school or degree-granting educational institution insofar as such activities and services are a part of the duties of his salaried position.

***NB Effective June 30, 2022**

2. The activities and services required of a student, intern, or resident in psychology, pursuing a course of study leading to a doctoral degree in psychology in an institution approved by the department, provided that such activities and services constitute a part of his supervised course of study in psychology. Such persons shall be designated by title as "psychological intern", "psychological trainee" or other such title which clearly indicates his training status.
3. The practice, conduct, activities or services by any person licensed or otherwise authorized to practice medicine within the state pursuant to article one hundred thirty-one of this title or by any person registered to perform services as a physician assistant within the state pursuant to article one hundred thirty-one-B of this title.
4. The practice, conduct, activities, or services by any person licensed or otherwise authorized to practice nursing as a registered professional nurse or nurse practitioner within the state pursuant to article one hundred thirty-nine of this title or by any person licensed or otherwise authorized to practice social work within the state pursuant to article one hundred fifty-four of this title, or by any person licensed or otherwise authorized to practice mental health counseling, marriage and family therapy, creative arts therapy, or psychoanalysis within the state pursuant to article one hundred sixty-three of this title, or any person licensed or otherwise authorized to practice applied behavior analysis within the state pursuant to article one hundred sixty-seven of this title or any individual who is credentialed under any law, including attorneys, rape crisis counselors, certified alcoholism counselors, and certified substance abuse counselors from providing mental health services within their respective established authorities.
5. The conduct, activities, or services of any member of the clergy or Christian Science practitioner, in the provision of pastoral counseling services within the context of his or her ministerial charge or obligation.
6. The conduct, activities, or services of individuals, churches, schools, teachers, organizations, or not-for-profit businesses in providing instruction, advice, support, encouragement, or information to individuals, families, and relational groups.
7. The practice, conduct, activities, or services of an occupational therapist from performing work consistent with article one hundred fifty-six of this title.

8. The representation as a psychologist and the rendering of services as such in this state for a temporary period of a person who resides outside the state of New York and who engages in practice as a psychologist and conducts the major part of his practice as such outside this state, provided such person has filed with the department evidence that he has been licensed or certified in another state or has been admitted to the examination in this state pursuant to section seventy-six hundred three of this article. Such temporary period shall not exceed ten consecutive business days in any period of ninety consecutive days or in the aggregate exceed more than fifteen business days in any such ninety-day period.
9. The The provision of psychotherapy as defined in subdivision two of section eighty-four hundred one of this title to the extent permissible within the scope of practice of psychology, by any not-for-profit corporation or education corporation providing services within the state of New York and operating under a waiver pursuant to section sixty-five hundred three-a of this title, provided that such entities offering psychology services shall only provide such services through an individual appropriately licensed or otherwise authorized to provide such services or a professional entity authorized by law to provide such services.
10.
 - a. A person without a license from: performing assessments including but not limited to basic information collection, gathering of demographic data, and informal observations, screening and referral used for general eligibility for a program or service and determining the functional status of an individual for the purpose of determining need for services; advising individuals regarding the appropriateness of benefits they are eligible for; providing general advice and guidance and assisting individuals or groups with difficult day to day problems such as finding employment, locating sources of assistance, and organizing community groups to work on a specific problem; providing peer services; selecting for suitability and providing substance abuse treatment services or group re-entry services to incarcerated individuals in state correctional facilities; or providing substance abuse treatment services or re-entry services to incarcerated individuals in local correctional facilities.
 - b. A person without a license from creating, developing or implementing a service plan or recovery plan that is not a behavioral health diagnosis or treatment plan. Such service or recovery plans shall include, but are not limited to, coordinating, evaluating or determining the need for, or the provision of the following services: job training and employability; housing; homeless services and shelters for homeless individuals and families; refugee services; residential, day or community habilitation services; general public assistance; in home services and supports or home-delivered meals; recovery supports; adult or child protective services including investigations; detention as defined in section five hundred two of the executive law; prevention and residential services for victims of domestic violence; services for runaway and homeless youth; foster care, adoption, preventive services or services in accordance with an approved plan pursuant to section four hundred four of the social services law, including, adoption and foster home studies and assessments, family service plans, transition plans, permanency planning activities, and case planning or case management as such terms are

defined in the regulations of the office of children and family services; residential rehabilitation; home and community based services; and de-escalation techniques, peer services or skill development.

c.

- i. A person without a license from participating as a member of a multi-disciplinary team to assist in the development of or implementation of a behavioral health services or treatment plan; provided that such team shall include one or more professionals licensed under this article or articles one hundred thirty-one, one hundred thirty-nine, one hundred fifty-four or one hundred sixty-three of this chapter; and provided, further, that the activities performed by members of the team shall be consistent with the scope of practice for each team member licensed or authorized under title VIII of this chapter, and those who are not so authorized may not engage in the following restricted practices: the diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities; patient assessment and evaluating; the provision of psychotherapeutic treatment; the provision of treatment other than psychotherapeutic treatment; or independently developing and implementing assessment-based treatment plans as defined in section seventy-seven hundred one of this title.
- ii. For the purposes of this paragraph, "assist" shall include, but not be limited to, the provision or performance of the following tasks, services, or functions by an individual who has obtained the training and experience required by the applicable state oversight agency to perform such task, service or function in facilities or programs operating pursuant to article nineteen-G of the executive law; articles seven, sixteen, thirty-one or thirty-two of the mental hygiene law; or title three of article seven of the social services law:
 1. helping an individual with the completion of forms or questionnaires;
 2. reviewing existing case records and collecting background information about an individual which may be used by the licensed professional or multi-disciplinary team;
 3. gathering and reporting information about previous behavioral health interventions, hospitalizations, documented diagnosis, or prior treatment for review by the licensed professional and multi-disciplinary team;
 4. discussing with the individual his or her situation, needs, concerns, and thoughts in order to help identify services that support the individual's goals, independence, and quality of life;
 5. providing advice, information, and assistance to individuals and family members to identify needs and available resources in the community to help meet the needs of the individual or family member;
 6. engaging in immediate and long-term problem solving, engaging in the development of social skills, or providing general help in

areas including, but not limited to, housing, employment, child care, parenting, community based services, and finances;

7. distributing paper copies of self-administered tests for the individual to complete when such tests do not require the observation and judgment of a licensed professional;
 8. monitoring treatment by the collection of written and/or observational data in accordance with the treatment plan and providing verbal or written reports to the multi-disciplinary team;
 9. identifying gaps in services and coordinating access to or arranging services for individuals such as home care, community based services, housing, employment, transportation, child care, vocational training, or health care;
 10. offering education programs that provide information about disease identification and recommended treatments that may be provided, and how to access such treatment;
 11. reporting on behavior, actions, and responses to treatment by collecting written and/or observational data as part of a multi-disciplinary team;
 12. using de-escalation techniques consistent with appropriate training;
 13. performing assessments using standardized, structured interview tools or instruments;
 14. directly delivering services outlined in the service plan that are not clinical in nature but have been tailored to an individual based on any diagnoses such individual may have received from a licensed professional; and
 15. advocating with educational, judicial or other systems to protect an individual's rights and access to appropriate services.
- d. Provided, further, that nothing in this subdivision shall be construed as requiring a license for any particular activity or function based solely on the fact that the activity or function is not listed in this subdivision

11. The conduct, activities or services of a technician to administer and score standardized objective (non-projective) psychological or neuropsychological tests which have specific predetermined and manualized administrative procedures which entail observing and describing test behavior and test responses, and which do not require evaluation, interpretation or other judgments; provided, however, that such technician shall: (i) hold no less than a Bachelor's degree in psychology or a related field; (ii) undergo a process of regular training by a licensed psychologist, which shall include, but not be limited to a minimum of eighty total hours of (a) professional ethics, (b) studying and mastering information from test manuals, and (c) direct observation of a licensed psychologist or trained technician administering and scoring tests, in addition to a minimum of forty total hours of administering and scoring tests in the presence of a licensed psychologist or trained technician, provided such interaction with the licensed psychologist equals or exceeds fifty percent of the total training time; (iii) be under the direct and ongoing

supervision of a licensed psychologist in no greater than a 3:1 ratio or the part time equivalent thereto; (iv) not be employed within a school setting and (v) not select tests, analyze patient data or communicate results to patients. The supervising licensed psychologist must submit, pursuant to a form to be prescribed and developed within ninety days of the effective date of this subdivision by the department, a sworn statement detailing compliance with the above requirements. The licensed psychologist's use of such individual pursuant to the terms of this subdivision shall be undertaken only with special care and professional judgment in order to ensure the safety and well-being of the patient considering the severity of the symptoms, the age of the patient and the length of the examination process, and shall include appropriate ongoing contact with the licensed psychologist at appropriate intervals. Such use shall be subject to the full disciplinary and regulatory authority of the board of regents and the department pursuant to this title. The licensed psychologist must notify the patient or designated health care surrogate that the licensed psychologist may utilize the services of a technician to administer certain exams, and must provide the patient or designated health care surrogate the opportunity to object to the licensed psychologist's plan to utilize a technician.

12. Notwithstanding any other provision of law to the contrary, nothing in this article shall be construed to prohibit or limit the activities or services provided under this article by any person who is employed or who commences employment in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, or a local governmental unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law on or before one year from the date that the regulations issued in accordance with section six of the chapter of the laws of two thousand eighteen which added this subdivision appear in the state register or are adopted, whichever is later. Such prohibitions or limitations shall not apply to such employees for as long as they remain employed by such programs or services and whether they remain employed by the same or other employers providing such programs or services. Provided, however, that any person who commences employment in such program or service after such date and performs services that are restricted under this article shall be appropriately licensed or authorized under this article. Each state oversight agency shall create and maintain a process to verify employment history of individuals exempt under this subdivision.
13. The activities or services provided by a person with a master's level degree in psychology or its equivalent, working under the supervision of a licensed psychologist in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, or a local government unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law.

§7606. Prohibitions.

Any individual whose license or authority to practice derives from the provisions of this article shall be prohibited from:

1. prescribing or administering drugs as defined in this chapter as a treatment, therapy, or professional service in the practice of his or her profession; or
2. using invasive procedures as a treatment, therapy, or professional service in the practice of his or her profession. For purposes of this subdivision, "invasive procedure" means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive procedure includes surgery, lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive therapy.

§7607. Mandatory continuing education.

1.
 - a. Each psychologist required under this article to register triennially with the department to practice in this state, shall comply with the provisions for mandatory continuing education prescribed in subdivision two of this section, except as set forth in paragraphs (b) and (c) of this subdivision. Psychologists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements and they have been issued a registration certificate, except that a psychologist may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.
 - b. Each psychologist shall be exempt from the mandatory continuing education requirements for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health that are certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.
 - c. A psychologist not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of psychology during the triennial registration period shall notify the department prior to reentering the profession and shall meet such continuing education requirements as shall be prescribed by regulations of the commissioner.
2. During each triennial registration period, an applicant for registration as a psychologist shall complete a minimum of thirty-six hours of acceptable learning activities, a minimum of three hours of which shall be course work in the area of professional ethics, including the laws, rules and regulations for practice in New York. Any psychologist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand twenty-one, shall complete continuing education hours on a prorated basis at the rate of one hour

per month for the period beginning January first, two thousand twenty-one up to the first registration date thereafter. A psychologist who has not satisfied the mandatory continuing education requirement shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration is issued as provided for in subdivision three of this section. Continuing education hours taken during one triennium may not be transferred to the subsequent triennium.

3.

- a. The department, in its discretion, may issue a conditional registration to a psychologist who fails to meet the continuing education requirements established in subdivision two of this section, but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department, but shall not exceed one year. Any psychologist who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices without such registration may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.
- b. For purposes of this section:
 - i. "acceptable learning activities" shall include, but not be limited to, formal courses of learning which contribute to professional practice in psychology and/or self-study activities; independent study; formal mentoring activities; publication in professional journals; or lectures, which meet the standards prescribed by regulations of the commissioner; and
 - ii. "formal courses of learning" shall include, but not be limited to, collegiate level credit and non-credit courses, professional development programs and technical sessions offered by national, state, and local professional associations and other organizations acceptable to the department, and any other organized educational and technical programs acceptable to the department. Formal courses must be taken from a sponsor approved by the department, based upon an application and fee, pursuant to the regulations of the commissioner.
- c. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education credits in specific subjects to fulfill this mandatory continuing education requirement.
- d. Psychologists shall maintain adequate documentation of completion of acceptable continuing education credits and shall provide such documentation at the request of the department. Failure to provide such documentation upon the request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.
- e. The mandatory continuing education fee shall be determined by the department. Such fee shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by subdivision eight of section seventy-six hundred three of this article.

***NB Effective January 1, 2021**

Note: Sunset provision for individuals employed by certain programs

Subdivision b of section 17-a of chapter 676 of the laws of 2002 amending the education law relating to defining the practice of psychology, as amended by chapter 419 of the laws of 2003, as amended by chapters 130 and 132 of the laws of 2010, as amended by chapter 57 of the laws of 2013 provides:

- *§17-a.
 - a. In relation to activities and services provided under article 153 of the education law, nothing in this act shall prohibit or limit the activities or services on the part of any person in the employ of a program or service operated, regulated, funded, or approved by the department of mental hygiene or the office of children and family services, or a local governmental unit as that term is defined in article 41 of the mental hygiene law or a social services district as defined in section 61 of the social services law. ... This section shall not authorize the use of any title authorized pursuant to article 153 or 163 of the education law by any such employed person, except as otherwise provided by such articles respectively. This section shall be deemed repealed July 1, 2018.
 - b. ...
 - c. ...

*Only the statutory provision that relates to the exemption from the Psychology Practice Act has been included here.

Part 29, Unprofessional Conduct

§ 29.1 General provisions.

- a. Unprofessional conduct shall be the conduct prohibited by this section. The provisions of these rules applicable to a particular profession may define additional acts or omissions as unprofessional conduct and may establish exceptions to these general prohibitions.
- b. Unprofessional conduct in the practice of any profession licensed, certified or registered pursuant to title VIII of the Education Law, except for cases involving those professions licensed, certified or registered pursuant to the provisions of Article 131 or 131-B of such law in which a statement of charges of professional misconduct was not served on or before July 26, 1991, the effective date of Chapter 606 of the Laws of 1991, shall include:

1. willful or grossly negligent failure to comply with substantial provisions of Federal, State or local laws, rules or regulations governing the practice of the profession;
2. exercising undue influence on the patient or client, including the promotion of the sale of services, goods, appliances or drugs in such manner as to exploit the patient or client for the financial gain of the practitioner or of a third party;
3. directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive, any fee or other consideration to or from a third party for the referral of a patient or client or in connection with the performance of professional services;
4. permitting any person to share in the fees for professional services, other than: a partner, employee, associate in a professional firm or corporation, professional subcontractor or consultant authorized to practice the same profession, or a legally authorized trainee practicing under the supervision of a licensed practitioner. This prohibition shall include any arrangement or agreement whereby the amount received in payment for furnishing space, facilities, equipment or personnel services used by a professional licensee constitutes a percentage of, or is otherwise dependent upon, the income or receipts of the licensee from such practice, except as otherwise provided by law with respect to a facility licensed pursuant to Article 28 of the Public Health Law or Article 13 of the Mental Hygiene Law;
5. conduct in the practice of a profession which evidences moral unfitness to practice the profession;
6. willfully making or filing a false report, or failing to file a report required by law or by the Education Department, or willfully impeding or obstructing such filing, or inducing another person to do so;
7. failing to make available to a patient or client, upon request, copies of documents in the possession or under the control of the licensee which have been prepared for and paid for by the patient or client;
8. revealing of personally identifiable facts, data or information obtained in a professional capacity without the prior consent of the patient or client, except as authorized or required by law;
9. practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform, or performing without adequate supervision professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger;

10. delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience or by licensure, to perform them;
11. performing professional services which have not been duly authorized by the patient or client or his or her legal representative;
12. advertising or soliciting for patronage that is not in the public interest:
 - i. Advertising or soliciting not in the public interest shall include, but not be limited to, advertising or soliciting that:
 - a. is false, fraudulent, deceptive or misleading;
 - b. guarantees any service;
 - c. makes any claim relating to professional services or products or the cost or price therefore which cannot be substantiated by the licensee, who shall have the burden of proof;
 - d. makes claims of professional superiority which cannot be substantiated by the licensee, who shall have the burden of proof;
or
 - e. offers bonuses or inducements in any form other than a discount or reduction in an established fee or price for a professional service or product.
 - ii. The following shall be deemed appropriate means of informing the public of the availability of professional services:
 - a. informational advertising not contrary to the foregoing prohibitions; and
 - b. the advertising in a newspaper, periodical or professional directory or on radio or television of fixed prices, or a stated range of prices, for specified routine professional services, provided that if there is an additional charge for related services which are an integral part of the overall service being provided by the licensee, the advertisement shall so state, and provided further that the advertisement indicates the period of time for which the advertised prices shall be in effect.
 - iii.
 - a. all licensees placing advertisements shall maintain, or cause to be maintained, an exact copy of each advertisement, transcript, tape or videotape thereof as appropriate for the medium used, for a period of one year after its last appearance. This copy shall be made available for inspection upon demand of the Education Department;

- b. a licensee shall not compensate or give anything of value to representatives of the press, radio, television or other communications media in anticipation of or in return for professional publicity in a news item;
 - iv. Testimonials, demonstrations, dramatizations, or other portrayals of professional practice are permissible provided that they otherwise comply with the rules of professional conduct and further provided that the following conditions are satisfied:
 - a. the patient or client expressly authorizes the portrayal in writing;
 - b. appropriate disclosure is included to prevent any misleading information or imagery as to the identity of the patient or client;
 - c. reasonable disclaimers are included as to any statements made or results achieved in a particular matter;
 - d. the use of fictional situations or characters may be used if no testimonials are included; and
 - e. fictional client testimonials are not permitted;
- 13. failing to respond within 30 days to written communications from the Education Department or the Department of Health and to make available any relevant records with respect to an inquiry or complaint about the licensee's unprofessional conduct. The period of 30 days shall commence on the date when such communication was delivered personally to the licensee. If the communication is sent from either department by registered or certified mail, with return receipt requested, to the address appearing in the last registration, the period of 30 days shall commence on the date of delivery to the licensee, as indicated by the return receipt;
- 14. violating any term of probation or condition or limitation imposed on the licensee by the Board of Regents pursuant to Education Law, Section 6511.

§ 29.2 General provisions for health professions.

- a. Unprofessional conduct shall also include, in the professions of: acupuncture, athletic training, audiology, certified behavior analyst assistant, registered dental assisting, chiropractic, creative arts therapy, dental hygiene, dentistry, dietetics/nutrition, licensed behavior analyst, licensed pathologists' assistants, licensed perfusionist, licensed practical nursing, marriage and family therapy, massage therapy, medicine, mental health counseling, midwifery, occupational therapy, occupational therapy assistant, ophthalmic dispensing, optometry, pharmacy, physical therapist assistant, physical therapy, physician assistant, podiatry, psychoanalysis, psychology, registered pharmacy technicians, registered professional nursing, respiratory therapy, respiratory therapy technician, social

work, specialist assistant, speech-language pathology (except for cases involving those professions licensed, certified or registered pursuant to the provisions of article 131 or 131-B of the Education Law in which a statement of charges of professional misconduct was not served on or before July 26, 1991, the effective date of chapter 606 of the Laws of 1991):

1. abandoning or neglecting a patient or client under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care, or abandoning a professional employment by a group practice, hospital, clinic or other health care facility, without reasonable notice and under circumstances which seriously impair the delivery of professional care to patients or clients;
2. willfully harassing, abusing or intimidating a patient either physically or verbally;
3. failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient. Unless otherwise provided by law, all patient records must be retained for at least six years. Obstetrical records and records of minor patients must be retained for at least six years, and until one year after the minor patient reaches the age of 21 years;
4. using the word "Doctor" in offering to perform professional services without also indicating the profession in which the licensee holds a doctorate;
5. failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional;
6. guaranteeing that satisfaction or a cure will result from the performance of professional services;
7. ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient;
8. claiming or using any secret or special method of treatment which the licensee refuses to divulge to the State Board for the profession;
9. failing to wear an identifying badge, which shall be conspicuously displayed and legible, indicating the practitioner's name and professional title authorized pursuant to the Education Law, while practicing as an employee or operator of a hospital, clinic, group practice or multiprofessional facility, registered pharmacy, or at a commercial establishment offering health services to the public;
10. entering into an arrangement or agreement with a pharmacy for the compounding and/ or dispensing of coded or specially marked prescriptions;
11. with respect to all professional practices conducted under an assumed name, other than facilities licensed pursuant to article 28 of the Public Health Law or article 13 of the Mental Hygiene Law, failing to post conspicuously at the site of such

practice the names and the licensure field of all of the principal professional licensees engaged in practice at that site (*i.e.*, principal partners, officers or principal shareholders);

12. issuing prescriptions for drugs and devices which do not contain the following information: the date written, the prescriber's name, address, telephone number, profession and registration number, the patient's name, address and age, the name, strength and quantity of the prescribed drug or device, as well as the directions for use by the patient. In addition, all prescriptions for controlled substances shall meet the requirements of article 33 of the Public Health Law;
13. failing to use scientifically accepted infection prevention techniques appropriate to each profession for the cleaning and sterilization or disinfection of instruments, devices, materials and work surfaces, utilization of protective garb, use of covers for contamination-prone equipment and the handling of sharp instruments. Such techniques shall include but not be limited to:
 - i. wearing of appropriate protective gloves at all times when touching blood, saliva, other body fluids or secretions, mucous membranes, nonintact skin, blood-soiled items or bodily fluid-soiled items, contaminated surfaces, and sterile body areas, and during instrument cleaning and decontamination procedures;
 - ii. discarding gloves used following treatment of a patient and changing to new gloves if torn or damaged during treatment of a patient; washing hands and donning new gloves prior to performing services for another patient; and washing hands and other skin surfaces immediately if contaminated with blood or other body fluids;
 - iii. wearing of appropriate masks, gowns or aprons, and protective eyewear or chin-length plastic face shields whenever splashing or spattering of blood or other body fluids is likely to occur;
 - iv. sterilizing equipment and devices that enter the patient's vascular system or other normally sterile areas of the body;
 - v. sterilizing equipment and devices that touch intact mucous membranes but do not penetrate the patient's body or using high-level disinfection for equipment and devices which cannot be sterilized prior to use for a patient;
 - vi. using appropriate agents, including but not limited to detergents for cleaning all equipment and devices prior a sterilization or disinfection;
 - vii. cleaning, by the use of appropriate agents, including but not limited to detergents, equipment and devices which do not touch the patient or that only touch the intact skin of the patient;
 - viii. maintaining equipment and devices used for sterilization according to the manufacturer's instructions;
 - ix. adequately monitoring the performance of all personnel, licensed or unlicensed, for whom the licensee is responsible regarding infection control techniques;

- x. placing disposable used syringes, needles, scalpel blades, and other sharp instruments in appropriate puncture-resistant containers for disposal; and placing reusable needles, scalpel blades, and other sharp instruments in appropriate puncture-resistant containers until appropriately cleaned and sterilized;
 - xi. maintaining appropriate ventilation devices to minimize the need for emergency mouth-to-mouth resuscitation;
 - xii. refraining from all direct patient care and handling of patient care equipment when the health care professional has exudative lesions or weeping dermatitis and the condition has not been medically evaluated and determined to be safe or capable of being safely protected against in providing direct patient care or in handling patient care equipment; and
 - xiii. placing all specimens of blood and body fluids in well-constructed containers with secure lids to prevent leaking; and cleaning any spill of blood or other body fluid with an appropriate detergent and appropriate chemical germicide; and
14. failing to adhere to applicable practice guidelines, as determined by the commissioner, for the compounding of sterile drugs and products.

- b. Unprofessional conduct shall also include, in those professions specified in section 18 of the Public Health Law and in the professions of acupuncture, certified behavior analyst assistant, creative arts therapy, marriage and family therapy, massage therapy, mental health counseling, and psychoanalysis, failing to provide access by qualified persons to patient information in accordance with the standards set forth in section 18 of the Public Health Law. In the professions of acupuncture, certified behavior analyst assistant, creative arts therapy, licensed behavior analyst, marriage and family therapy, massage therapy, mental health counseling, and psychoanalysis, qualified persons may appeal the denial of access to patient information in the manner set forth in section 18 of the Public Health Law to a record access committee appointed by the executive secretary of the appropriate State Board. Such record access review committees shall consist of not less than three, nor more than five members of the appropriate State Board.

29.12 Special provisions for the profession of psychology.

- a. Unprofessional conduct in the practice of psychology shall include conduct prohibited by Sections 29.1 and 29.2 of this Part, except as provided in this section, and shall also include the following:
- 1. in the conduct of psychological research, failing to undertake reasonable efforts to remove the possible harmful aftereffects of emotional stress as soon as the design of the research permits, or failing to inform prospective research subjects or their

authorized representatives fully of the danger of serious aftereffects, if such danger exists, before they are utilized as research subjects;

2. in the interpretation of the provisions of Section 29.1(b)(5) of this Part and in the treatment of sexual dysfunction, as well as in other areas of the practice of psychology:
 - i. immoral conduct shall include any physical contact of a sexual nature between psychologist and client; but immoral conduct shall not include the use of films and/or other audiovisual aids with individuals or groups in the development of appropriate responses to overcome sexual dysfunction;
 - ii. in therapy groups, immoral conduct shall include activities which promote or allow explicit physical sexual contact between group members during sessions;
3. the provisions of Section 29.2(a)(5) of this Part shall apply to psychologists, who may also list in directories and on professional stationery areas of specialization and subspecialties recognized by the Board of Regents.

Link to Practice Alerts and Guidelines: <http://www.op.nysed.gov/prof/psych/psychalerts.htm>