

By Ms. Gibson of Belmont, petition of Mary Jane Gibson, A. Joseph DeNucci, Sherwood Guernsey and Edward L. Burke relative to the membership of the Board of Registration of Psychologists. Health Care.

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## The Commonwealth of Massachusetts

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In the Year One Thousand Nine Hundred and Eighty-Six.

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### AN ACT TO MAKE CERTAIN CHANGES IN THE STATUTE REGULATING THE LICENSING OF PSYCHOLOGISTS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. MASSACHUSETTS PSYCHOLOGIST LI-  
2 CENSING LAW.

3 Chapter 13 of the General Laws is hereby amended by substitut-  
4 ing for section 76 through section 79 the following four  
5 sections: —

6 Section 76. There shall be a board of registration of psycholo-  
7 gists which shall consist of nine members to be appointed by the  
8 governor. Members of the board shall be residents of the Com-  
9 monwealth and citizens of the United States. Seven members of the  
10 board shall be licensed psychologists under the provisions of sec-  
11 tions one hundred and eighteen to one hundred and twenty-seven,  
12 inclusive, of chapter one hundred and twelve and shall have been  
13 actively engaged in the practice or teaching of psychology or in  
14 psychological research for the five years next preceding his  
15 appointment. At least four members shall be certified as health  
16 service provider by the board under the provisions of section one  
17 hundred eighteen to one hundred twenty-seven, inclusive, of chap-  
18 ter one hundred twelve. Two members of the board shall be selected  
19 from and shall represent the general public.

20 Section 77. Upon the expiration of the term of a member, his  
21 successor shall be appointed for a term of five years. No member of  
22 the board who has served a full five-year term shall be reappointed  
23 to succeed him/herself.

24 Section 78. The governor shall have the power to remove from

25 office any member of the board for cause; but no board member  
26 may be so removed without being informed in writing at least thirty  
27 days in advance of the reasons for his/her removal and of his right  
28 to a public or private hearing with counsel.

29 Section 79. The board shall, at its first meeting, and at each  
30 annual meeting thereafter, organize by electing from among its  
31 members a chair, a vice-chair and a secretary. Such officers shall  
32 serve until their successors are elected and qualified.

33 The board shall hold at least two regular meetings each year; but  
34 additional meetings may be held upon call of the chair, or the  
35 secretary, or at the written request of any three members of the  
36 board. Five members of the board shall constitute a quorum.

37 The board shall examine and pass upon the qualifications of  
38 applicants for licenses to practice psychology in the Common-  
39 wealth and shall issue licenses to qualified applicants, but no action  
40 shall be taken with respect to the granting of a license or its  
41 revocation or suspension without the concurrence of at least five  
42 members of the board. The board shall adopt a seal which shall be  
43 affixed to all licenses issued by the board.

44 The board shall from time to time adopt such rules and regula-  
45 tions and such amendments thereof and supplements thereto as it  
46 may deem necessary, however, said rules, regulations, amendments  
47 and supplements must be approved by the Secretary of Consumer  
48 Affairs before becoming effective.

49 The members of the board shall serve without compensation but  
50 each member shall be reimbursed by actual expenses reasonably  
51 incurred in the performance of his duties as a member on behalf of  
52 the board. The board shall be empowered to hire such assistants as  
53 it may deem necessary to carry on its activities.

54 The board may also appoint psychologists, who meet the qualifi-  
55 cations for appointment to the board, to assist it in performing  
56 whichever of its functions it deems to be appropriate. Said assis-  
57 tance shall be provided under the supervision of a board member.

1 SECTION 2. Chapter 112 of the General Laws is hereby  
2 amended by eliminating sections 117 through 129 and substituting  
3 the following twelve sections:

4 Section 118. As used in sections one hundred and eighteen to  
5 one hundred and thirty, inclusive, the following words shall have

6 the following meanings unless the context clearly indicates a differ-  
7 ent meaning: —

8 “Psychologist,” an individual who by training and experience  
9 meets the requirements for licensing by the board and is duly  
10 licensed to practice psychology in the Commonwealth.

11 “The practice of psychology,” rendering or offering to render  
12 professional service for any fee, monetary or otherwise, to individ-  
13 uals, groups of individuals, organizations or members of the public  
14 which includes the observation, description, evaluation, interpre-  
15 tation, and modification of human behavior, by the application of  
16 psychological principles, methods and procedures, for the purpose  
17 of assessing or effecting changes in symptomatic, maladaptive or  
18 undesired behavior and/or issues pertaining to interpersonal rela-  
19 tionships, work and life adjustment, personal effectiveness and  
20 mental health. The practice of psychology includes, but is not  
21 limited to, psychological testing, assessment and evaluation of  
22 intelligence, personality, abilities, attitudes, motivation, interests  
23 and aptitudes; counseling, psychotherapy, hypnosis, biofeedback  
24 training and behavior therapy; diagnosis and treatment of mental  
25 and emotional disorder or disability, alcoholism and substance  
26 abuse, and the psychological aspects of physical illness or disabil-  
27 ity; psychoeducational evaluation, therapy, remediation and con-  
28 sultation. Psychological services may be rendered to individuals,  
29 families, groups and the public. For purposes of this statute, the  
30 practice of psychology does not include the teaching of psychol-  
31 ogy, the conduct of psychological research, or the provision of  
32 psychological consultation to organizations, unless such teaching  
33 research or consultation involves the delivery or supervision of the  
34 types of direct services described above, to individuals or groups of  
35 individuals.

36 “Doctoral Degree in Psychology,” a doctoral degree from a  
37 recognized educational institution from an integrated program in  
38 psychology as defined by the rules and regulations of the Board.

39 “Health Service,” shall mean the delivery of direct, preventive,  
40 assessment and therapeutic intervention services to individuals  
41 whose growth, adjustment, or functioning is actually impaired or  
42 may be at risk of impairment.

43 “Supervised health service experience,” training at a site where  
44 health services in psychology are normally provided, with which

45 the applicant has a formal relationship, and where the applicant is  
46 supervised at least one hour for every sixteen hours of training, at  
47 least half of which is provided by a psychologist licensed by the  
48 board who is a member of the staff of the training site. At least 25%  
49 of the applicant's time must be in direct client contact.

50 "Health Service Training Program", supervised experience at a  
51 site where health services in psychology are normally provided  
52 which is part of an organized integrated training program as  
53 defined by the rules and regulations of the Board.

54 "Board," the board of registration of psychologists.

55 "Recognized educational institution," a degree-granting college  
56 or university which is accredited by a Regional Board or Associa-  
57 tion of Institutions of higher education approved by the Council on  
58 Post Secondary Education of the United States Department of  
59 Education, or which is chartered to grant doctoral degrees by the  
60 Commonwealth of Massachusetts. Such institutional accreditation  
61 shall exist at the time that the doctoral degree is granted or within  
62 two years thereafter.

63 Section 119. Each person desiring to obtain a license as a psy-  
64 chologist shall make application to the board upon such form and  
65 in such manner as the board shall prescribe and shall furnish  
66 evidence satisfactory to the board that such person:

67 (a) Is of good moral character;

68 (b) Has received a doctoral degree in psychology from a recog-  
69 nized educational institution;

70 (c) Has engaged for the equivalent of at least two years full time,  
71 at least one year of which was subsequent to his receiving the  
72 doctoral degree, in psychological employment, teaching, research  
73 or professional practice under the supervision of or in collabora-  
74 tion with a licensed psychologist, or one clearly eligible for licen-  
75 sure in the opinion of the board;

76 (d) Conducts his professional activities in accordance with  
77 accepted standards such as the Ethical Standards of Psychologists  
78 of the American Psychological Association.

79 Section 120. Upon satisfaction of requirements specified in sec-  
80 tion one hundred and nineteen, the applicant shall pass an exami-  
81 nation administered by the board. Examinations shall be conducted  
82 at least once a year at a time and place to be designated by the  
83 board. Examinations shall be written, oral or both as the board

84 deems advisable. An applicant shall be held to have passed an  
85 examination upon the affirmative vote of at least five members of  
86 the board. Any person who shall have failed an examination  
87 conducted by the board may not be admitted to a subsequent  
88 examination for a period of at least six months.

89 Any licensed psychologist who independently provides or offers  
90 to provide to the public, health services, must be certified as a  
91 health service provider by the board. The board shall certify as a  
92 health service provider those applicants who shall demonstrate  
93 that they have at least two years full time of supervised health  
94 service experience, of which at least one year is post doctoral and at  
95 least one year of which is in an organized health service training  
96 program.

97 Section 121. Notwithstanding the provisions of section one  
98 hundred and twenty, the board may issue a license *and may certify*  
99 *as a health service provider* without examination to an applicant  
100 who presents evidence that he/she has been licensed or certified  
101 as a psychologist by a similar board of another jurisdiction whose  
102 standards, in the opinion of the board, are not lower than those  
103 required in the commonwealth; or that he holds a diploma from  
104 a nationally recognized board or agency approved by the board.

105 Section 122. On or after January the first, nineteen hundred and  
106 eighty-seven, any person not licensed to practice psychology who  
107 holds him/herself out to be a psychologist or who uses the title  
108 "psychologist" or engages in the practice of psychology in a  
109 manner that implies or would reasonably be deemed to imply that  
110 he/she is so licensed shall be punished by a fine of not more than  
111 five hundred dollars, or by imprisonment of not more than three  
112 months, or both.

113 Section 123. The penalties in section one hundred and twenty-  
114 two shall not apply to: —

115 (a) The salaried employment of individuals in recognized educa-  
116 tional institutions, federal, state, county or local government insti-  
117 tutions, non-profit community agencies or research facilities while  
118 performing those duties for which they are employed by such  
119 institutions, agencies or facilities;

120 (b) The salaried employment of individuals certified as school  
121 psychologists by the department of education when functioning

122 within the scope of their employment by a private or public school  
123 system;

124 (c) The salaried employment of individuals in corporations,  
125 partnerships, associations, or for persons, providing psychological  
126 services for remuneration while performing those duties for which  
127 they are employed by such organizations or persons, under the  
128 supervision of a licensed psychologist;

129 (d) Persons eligible for licensure under section one hundred and  
130 nineteen who are full time employees of a recognized educational  
131 institution or a non-profit research facility who are solicited for  
132 consultation of a research nature;

133 (e) Persons eligible for licensure under section one hundred and  
134 nineteen who provide consultative services for a fee no more than  
135 one day a month;

136 (f) Students of psychology, psychological interns or persons  
137 preparing for the practice of psychology under qualified supervi-  
138 sion in a recognized training institution or facility provided that  
139 they are designated by such titles as "psychological intern," "psy-  
140 chological trainee" or others clearly indicating such training status.

141 Section 124. The board may grant a temporary license for a  
142 period not to exceed one year to a psychologist with legal residence  
143 outside the commonwealth to practice within the commonwealth  
144 provided he registers with the board and practices in consultation  
145 with, or under the supervision of, a licensed psychologist or pos-  
146 sesses qualifications acceptable to the board.

147 Section 125. Nothing in sections one hundred and eighteen to  
148 one hundred and twenty-nine, inclusive, shall be construed to  
149 prevent qualified members of other professions or occupations  
150 such as physicians, teachers, members of the clergy, authorized  
151 Christian Science practitioners, attorneys-at-law, social workers,  
152 guidance counselors, clinical counselors, adjustment counselors,  
153 speech pathologists, audiologists or rehabilitation counselors from  
154 doing work of a psychological nature consistent with the accepted  
155 standards of their respective professions, provided, however, that  
156 they do not hold themselves out to the public by any title or  
157 description stating or implying that they are psychologists or are  
158 licensed to practice psychology.

159 Section 126. The following fees shall be assessed and collected  
160 by the board: (a) Application fee, fifty dollars, (b) Initial license fee,

161 twenty-five dollars, (c) Temporary license fee, ten dollars, (d)  
162 Biennial renewal fee, twenty-five dollars.

163 In addition the Board may assess additional fees not to exceed  
164 \$50 to the applications and biennial renewals which shall be used  
165 exclusively for the investigation and prosecution of complaints  
166 against psychologists.

167 Section 127. Licenses shall be valid for two years and shall be  
168 renewed biennially. On or before April the fifteenth every two  
169 years the secretary of the board shall forward to each licensed  
170 psychologist an application form for renewal. Upon the receipt of  
171 the completed form and the renewal fee on or before June the first,  
172 the secretary shall renew the license for two years commencing July  
173 the first. Any application for renewal of a license which has expired  
174 shall require the payment of a new application fee. Pursuant to  
175 each renewal, the applicant must present to the board documen-  
176 tary evidence of the completion of 20 hours of continuing educa-  
177 tion programs designed to improve the professional competence of  
178 the licensee. Such programs must be completed during the licensed  
179 period immediately prior to renewal. In order to qualify, a pro-  
180 gram must be approved by the American Psychological Associa-  
181 tion or such other accreditation program that the Board may  
182 designate as appropriate.

183 Section 128. The Board shall investigate all complaints relating  
184 to the proper practice of psychology by any person holding a  
185 certificate of registration under sections 118 to 129 inclusive.

186 The board may, after a hearing pursuant to chapter 30A revoke,  
187 suspend, or cancel the certificate of registration, or reprimand,  
188 censure or otherwise discipline a psychologist registered under said  
189 sections upon proof satisfactory to a majority of the Board that  
190 said psychologist:

191 a. fraudulently procured said certificate or registration;

192 b. is guilty of an offense against any provision of the Common-  
193 wealth relating to the practice of psychology, or any rule or regula-  
194 tion adopted thereunder;

195 c. is guilty of gross misconduct in the practice of psychology, or  
196 of practicing psychology fraudulently, or beyond its authorized  
197 scope, or with gross incompetence, or with gross negligence on a  
198 particular occasion or negligence on repeated occasions;

199 d. is guilty of practicing psychology while the ability to practice

200 psychology is impaired by alcohol, drugs, physical disability or  
201 mental instability;

202 e. is guilty of being habitually drunk or being or having been  
203 addicted to, dependent on, or a habitual user of narcotics,  
204 barbiturates, amphetamines, hallucinogens, or other drugs having  
205 similar effects;

206 f. is guilty of knowingly permitting, aiding and abetting an  
207 unlicensed individual to perform activities requiring a license for  
208 purposes of fraud, deception or personal gain, excluding activities  
209 permissible under any provision of the laws of the commonwealth  
210 or rule of the board;

211 g. has been convicted of a criminal offense which reasonably  
212 calls into question his/her ability to practice psychology;

213 h. is guilty of violating any rule or regulation of the board  
214 governing the practice of psychology.

215 The Board shall, after proper notice and hearing, adopt rules  
216 and regulations governing the practice of psychology in order to  
217 promote the public health, welfare, and safety and nothing in this  
218 section shall be construed to limit this general power of the Board.

219 No person filing a complaint or reporting or providing informa-  
220 tion pursuant to this section or assisting the board at its request in  
221 any manner in discharging its duties and functions shall be liable in  
222 any cause of action arising out of the receiving of such information  
223 and assistance, provided the person making the complaint or  
224 reporting or providing said information or assistance does so in  
225 good faith and without malice.

226 If the psychologist is found not guilty the board shall forthwith  
227 order a dismissal of the charges and the exoneration of the accused.

228 Notice in writing of a contemplated revocation or suspension of  
229 a license, or the cause therefor in sufficient particularity, and of the  
230 date of hearing thereon, shall be sent by registered or certified mail  
231 to the licensee, at his last known address at least fifteen days before  
232 the date of such hearing. The psychologist against whom a charge  
233 is filed shall have a right to appear before the board in person or by  
234 counsel, or both, may produce witnesses and evidence on his  
235 behalf, and may question witnesses. No license shall be revoked or  
236 suspended without such hearing, but the nonappearance of the  
237 licensee, after notice, shall not prevent such hearing. All matters  
238 upon which the decision is based shall be introduced in evidence at

239 the proceeding. The licensee shall be notified in writing of the  
240 board's decision. The board may make such rules and regulations  
241 as it deems proper for the filing of charges and the conduct of  
242 hearings.

243 After issuing an order or revocation or suspension the board  
244 may also file a petition in equity in the superior court in a county in  
245 which the respondent resides or transacts business, or in Suffolk  
246 county, to ensure appropriate injunctive relief to expedite and  
247 secure the enforcement of its order, pending the final determina-  
248 tion.

249 Section 129. After three years from the date of revocation, an  
250 application for reinstatement may be made to the board, which  
251 may, upon the affirmative vote of at least five of its members, grant  
252 such reinstatement.

253 Chapter 112 of the General Laws is further amended by deleting  
254 sections 3 through 5 and substituting the following five sections:

255 Section 3. Of the additional four members to be added to the  
256 five members already appointed and serving, one professional  
257 member shall be appointed for a term of five years and one profes-  
258 sional member shall be appointed for a term of three years; one  
259 consumer member will be appointed for a term of four years and  
260 one consumer member shall be appointed for a term of two years.

261 Section 4. Nothing in this act shall be construed to prevent  
262 school psychologists certified by the department of education from  
263 practicing and functioning within the scope of their employment in  
264 either the public or private school setting or performing as certified  
265 school psychologists at any time in either private practice or the  
266 public sector provided they use the title "Certified School Psycho-  
267 logists."

268 Section 5. The relations and communications between a licensed  
269 psychologist and the individuals with whom the psychologist  
270 engages in the practice of psychology are confidential. At the  
271 initiation of the professional relationship the psychologist shall  
272 inform the client of the following limitations to the confidentiality  
273 of their communications. No psychologist, nor any colleague,  
274 agent or employee of any psychologist, whether professional, clerical,  
275 academic or therapeutic, nor any other client or patient partic-  
276 ipating as a group with said psychologist, shall disclose any infor-  
277 mation acquired or revealed in the course of or in connection with

278 the performance of the psychologist's professional services, includ-  
279 ing the fact, circumstances, findings or records of such services,  
280 except under the following circumstances:

281 a. pursuant to the terms and conditions of M.G.L. Chapter 233,  
282 section 20B or any other relevant statute of the Commonwealth.

283 b. upon express, written consent of the client or patient.

284 c. upon the need to disclose information which protects the  
285 rights and safety of others when:

286 i. the client presents a clear and present danger to him/herself  
287 and refuses explicitly or by his/her behavior to voluntarily accept  
288 further appropriate treatment. In such circumstances, where the  
289 psychologist has a reasonable basis to believe that a patient can be  
290 committed to a hospital pursuant to M.G.L. Chapter 123, section  
291 , he shall have a duty to seek said commitment. The psycholo-  
292 gist may also contact members of the client's family or other  
293 individuals if in the psychologist's opinion, it would assist in pro-  
294 tecting the safety of the client; or

295 ii. the client has communicated to the psychologist an actual  
296 threat of physical violence against a clearly identified or reasonably  
297 identifiable victim or victims. In such circumstances, the psycholo-  
298 gist shall have a duty to warn or take reasonable precautions to  
299 provide protection from violent behavior. This duty shall be dis-  
300 charged by the psychologist who takes one or more of the following  
301 actions:

302 a. makes reasonable efforts to communicate the threat to the  
303 victim or victims;

304 b. seeks civil commitment of the patient pursuant to M.G.L.  
305 Chapter 123, section 12;

306 c. makes reasonable efforts to notify an appropriate police  
307 department or other law enforcement agency.

308 iii. where the client has a history of physical violence which is  
309 contained in his treatment records or which is known to the psy-  
310 chologist and where the psychologist has a reasonable basis to  
311 believe that there is a clear and present danger of physical violence  
312 against a clearly identified or reasonably identified victim or vic-  
313 tims. In such circumstances the psychologist shall have a duty to  
314 warn or take reasonable precautions to provide protection from  
315 violent behavior. This duty shall be discharged by the psychologist  
316 who takes one of more of the following actions:

317 a. Makes reasonable efforts to communicate the threat to the  
318 victim or victims;

319 b. Seeks civil commitment of the patient pursuant to M.G.L.  
320 Chapter 123, section 12;

321 c. Makes reasonable efforts to notify an appropriate police  
322 department or other law enforcement agency.

323 iv. Nothing in Section 5 shall require a psychologist to take any  
324 action which, in the exercise of reasonable professional judgment,  
325 would endanger him/her self or increase the danger to a potential  
326 victim or victims.

327 v. The psychologist shall only disclose that information which is  
328 essential in order to protect the rights and safety of others.

329 d. In order to collect amounts owed by the client or patient for  
330 professional services rendered by the psychologist or his employees  
331 providing however that the psychologist may only disclose the  
332 nature of services provided, the dates of services, the amount due  
333 for services and other relevant financial information. However, if  
334 the client raises as a defense to said action substantive assertions  
335 concerning the competence of the psychologist or the quality of the  
336 services provided, the psychologist may disclose whatever infor-  
337 mation is necessary to rebut such assertions.

338 e. in such other situations as shall be defined in the rules and  
339 regulations of the Board.

340 Section 6. Nothing in this statute shall be construed to revoke  
341 or alter in ways not specifically enunciated herein licenses granted  
342 by the Board prior to January 1, 1987.

343 Section 7. Notwithstanding the provisions of section one hun-  
344 dred twenty of Chapter 112 of the General Laws, if application is  
345 made before January the first, nineteen hundred and eighty-nine,  
346 to the board of registration of psychologists, by an applicant who  
347 was licensed as a psychologist on January first, nineteen hundred  
348 and eighty-seven, and who can demonstrate that he/she has been  
349 engaged for the equivalent of at least two years full time in the  
350 provision of health services shall be certified by the Board as a  
351 health care provider. Said applicant shall demonstrate that he has  
352 been engaged in the equivalent of at least two years full time in the  
353 provision of health services if he meets any one of the following  
354 conditions:

355 a. the psychologist has been a Blue Shield contracted provider  
356 for two calendar years.

357 b. the psychologist has a diplomate from the American Board of  
358 Professional Psychology in Clinical Psychology or Counseling  
359 Psychology.

360 c. the psychologist is listed in the National Register of Health  
361 Care Providers in Psychology.

362 d. the psychologist has the equivalent of two years of full time  
363 experience, one of which was post doctoral, at a site where health  
364 care services are provided.

365 e. the psychologist submits the affidavits of two psychologists  
366 licensed in Massachusetts which attest that the applicant meets the  
367 criteria set forth above, or

368 (f) by such other means that the Board may determine are  
369 acceptable.

370 Section 8. Notwithstanding the provisions of section 119 s. b  
371 and section 121 of Chapter 112 of the General Laws, if application  
372 is made before January the first, nineteen ninety-three to the Board  
373 by an applicant who has completed two full academic years of a  
374 graduate program on January first, nineteen eighty-seven, which  
375 he/she subsequently completes, leading to a doctoral degree in a  
376 closely related field with a major emphasis in psychology shall not  
377 be required to meet the requirements of 119b herein. An applicant  
378 shall be considered to have completed a doctoral degree in a closely  
379 related field if:

380 a. he/she has received a doctoral degree offered by a department  
381 of psychology from a recognized educational institution, or;

382 b. he/she has received a doctoral degree offered by an academic  
383 unit other than a department of psychology from a recognized  
384 educational institution and;

385 i. at least half the course credits required for the degree, exclud-  
386 ing dissertation credits, have been successfully earned in graduate  
387 courses, which are in the judgment of the board, predominantly  
388 psychological in content. Such credits may in part be earned in  
389 post-doctoral course work; and

390 ii. the dissertation, the supervised research project or other  
391 project conducted in partial fulfilment of the requirements for the  
392 degree is, in the judgment of the board, psychological in method  
393 and content.