

BOARD OF PSYCHOLOGISTS

The Economic Affairs Committee asks that Board Representatives Answer the Following Questions during the Board Review under House Bill No. 525:

1 • What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation? The regulation of psychologists through licensure serves the public interest by protecting society's most vulnerable individuals, including those who struggle against suicidal ideations, major depression, those about whom questions have been raised regarding competency in relation to parenting, the ability to stand trial for a crime, those who need to sort through some major decisions in their life, or to simply to be able to prove that they should remain free from institutional commitment.

2 • If your profession/occupation were not licensed, what public protection would be lost? Licensure of psychologists is preceded by and premised upon high standards of education and lengthy periods of supervised experience. The failure to regulate those who would assume the role of psychologist would expose the public to a foreseeable and increased risk of harm from incompetence and malfeasance. Because licensed psychologists are entrusted with serving and evaluating many of the most vulnerable of our population, should licensure not be required of psychologists, it would be the emotional wellbeing and constitutional rights of the most vulnerable among us who would suffer a loss of protection. If a problem exists with a professional's treatment or actions, there would be no entity with the appropriate knowledge to review and adjudicate public complaints.

3 • If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board. Yes. A board is necessary to provide the expertise to evaluate initial licensure applicants (such as appropriate educational degree, exams administered and passed, and to ensure there are no discipline concerns) and continued monitoring of existing licensees through complaint review, continuing education requirements, etc. As required by law, the Board of Psychologists is comprised of practitioners from various areas of psychological practice (two in private practice, one in public health, one engaged in the teaching of psychology) and two members must be from the general public who represent the perspective of consumers. The mix of talent on the board is the most appropriate method to deal with oversight issues.

4 • Does your board deal with unlicensed practice issues? If yes, what types of issues? Occasionally, the board is alerted to the conduct of individuals who portray themselves as having appropriate education and training to address or handle issues for which they are not qualified. A great deal of personal harm may result to individuals as a result of erroneous conclusions from psychological evaluations (e.g. confinement, parenting plan recommendations, competency to stand trial, and a court's reliance upon individuals claiming to be an expert in the field of psychology is often at the root of such problems.

5 • People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?

The safe and competent practice of psychology requires a doctoral level of education, training, and two years of professional supervised experience. To ensure the proper and necessary preparation, the law currently requires reasonable standards that do not unfairly bar any individual from earning a living.

6 • How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board? Board member training provided by the Department of Labor and Industry addresses this issue; board members are advised of the need to recuse themselves from decision-making if a conflict exists. The Presiding Officer and staff also monitor bias on a case-by-case basis to help ensure that the possibility or perception of bias is avoided, and a carefully guarded and liberally administered public right of participation ensures a critical review of all such decisions. Also, having a mix of public and professional members who serve together on the board is another safeguard. There are no other professions licensed by this board.

7 • Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body? Associations have a certain degree of overlap in their respective purposes. However, professional associations consist of members of the profession who choose to join the associations. Generally speaking, the primary mission of an association is to promote an industry, while the primary mission of a regulatory board is to protect the public. These are two separate functions not well-suited to be performed by the same entity.

8 • Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board? Yes, insurance companies are well aware of the advantage of a licensing board being able to determine the qualifications of practitioners, so licensure through an administrative agency is a prerequisite to insurance coverage for psychological services. The board is not aware of any alternative billing method.

9 • What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both? The Board has the expertise of the psychologist members who understand the technical aspects of the profession and two public members to represent the consumer view. Both aspects are essential to effective regulation of the profession, and neither would be available to the department without the use of a board.

10 • Is there an optimum ratio between licensees, board size, or public representation? There may be, and the number might differ for different boards. What we have now, four professional and two public members, appears to work well. A board is unwieldy if it is too large, and the current number (six board members) seems sufficient for the work load.

11 • If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation? A disinterested third party would spend significant time and money learning the profession and hiring consulting psychologists in various areas of the profession to address issues as they arise. Fraud issues such as insurance billing and medicare/medicaid deception have not been not common issues for this profession. However, the board has the ability to respond to fraud issues or to forward them to the Attorney General's office as the need arises. Psychologists have specialized skills of assessing professional abilities (and lack thereof) that governmental employees will not typically have. To

best protect the public, the regulating entity must have adequate knowledge of "standards of care," with which the board is already uniquely equipped because of its professional members.

12 • If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions? The scope of practice involving psychology is, to some extent, shared by other licensed mental health professionals. While some of this overlap is expected, it is important to assure that one's practice is not allowed to expand beyond the content and level of education and training associated with the license of that person. The public should be able to rely on the distinct titles associated with licensure that indicates the level of education and training associated with that person's practice. While there may be a third-party who may also properly judge whether there is an intrusion into another's practice, the statutes provide adequate notice of the respective scopes of practice and provide that if a person's practice exceeds that person's license, that person may be enjoined from the conduct by a district court action initiated by the board responsible for regulating the practice.

13 • Should any board have the ability to limit use of certain terminology to only a licensee? (see for example under the Board of Psychologists, the exemption from definitions:

37-17-104. Exemptions. (1) Except as provided in subsection (2), this chapter does not prevent:

(a) qualified members of other professions, such as physicians, social workers, lawyers, pastoral counselors, professional counselors licensed under Title 37, chapter 23, or educators, from doing work of a psychological nature consistent with their training if they do not hold themselves out to the public by a title or description incorporating the words "psychology", "psychologist", "psychological", or "psychologic"....

(2) Those qualified members of other professions described in subsection (1)(a) may indicate and hold themselves out as performing psychological testing, evaluation, and assessment, as described in 37-17-102(4)(b), provided that they are qualified to administer the test and make the evaluation or assessment

Terminology that implies a particular level of training/experience should have its use restricted to those individuals that actually have that training/experience and have been adequately assessed. Physicians, attorneys, and psychologists are amongst that group. These are titles that go with those professional labels and imply a particular level of training/experience. Consumers have a right to know the minimal qualifications of those who utilize the associated titles and terms, which is why some boards should be able to limit the use of certain terminology to only a licensee.