

**Kentucky Psychological Association
Annual Convention
November 10, 2011
Lexington, Kentucky**

**Licensure: Knowing and understanding
Kentucky's psychology licensing law.**

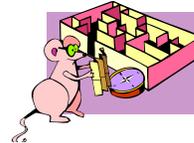
by
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Kentucky Board of Examiners of Psychology
and
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Assistant Attorney General
Commonwealth of Kentucky

Introduction

What you may not know about your license and the Board!

After this program, you will be able to effectively:

- Understand the statutes and regulations governing the practice of psychology;
- Be familiar with the operation of the Kentucky Board of Examiners of Psychology;
- Know recent changes in statute and administrative regulations to the law, including supervised experience necessary for licensure, and continuing education.



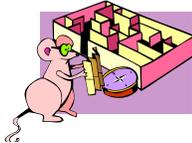
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Introduction

What you may not know about your license and the Board!

This program will also cover an:

- Overview of current legal aspects of the Board;
- Emphasis on the Code of Conduct and the complaint management process.
- This is an informal prerequisite to the workshop titled "Legal and Ethical Analysis of KBEP Complaint" on November 12, 2011.



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What is the Board?

The General Assembly created the Board:

"The Board shall consist of nine (9) members appointed by the Governor."
KRS 319.020(1):

- six (6) licensed psychologists
- two (2) certified psychologists/licensed psychological practitioners/licensed psychological associates
- one (1) citizen.

"The Board shall promulgate administrative regulations."

KRS 319.032:

- establishing requirements, standards, and tests to determine the moral, intellectual, educational, scientific, technical, and professional qualifications for licensure
- establishing and defining the scope of practice
- setting the requirements for disciplining licenses
- developing specific guidelines to handle sexual misconduct cases

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What is the Board?

"The Board shall promulgate administrative regulations:"

- requiring training for the Board and investigators regarding sexual misconduct cases
- establishing requirements for continuing education – 30 hours/3 years (39 hours/3 years *starting with your first licensure renewal after June 30, 2013 – 39 hours required when you next renew after June 30, 2013*)
- establishing and collecting reasonable fees for directories, etc.
- conducting hearings and appointing hearing officers under KRS 13B
- entering into reciprocal agreements with other state boards having qualifications and standards at least as high of Kentucky
- employing Board personnel
- investigating complaints
- governing the supervision of certified psychologists and employment of psychological associates and candidates for licensure
- developing guidelines regarding dually credentialed school psychologists
- increasing or decreasing fees
- promulgating other administrative regulations

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What is the mission of the Board?

The Board regulates the profession and enforces the minimum standards to be a licensed psychologist, psychological practitioner, and certified psychologist.

The "practice of psychology" is defined by KRS 319.010(7) – "practice act." This now specifically includes "psychological testing" – a short phrase for existing statutory authority.

No person who holds himself or herself out by any title or description of services incorporating the words "psychological," "psychologist," or "psychology," or any other term or terms that imply he or she is trained, experienced, or an expert in the field of psychology." KRS 319.005 – "title act."



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What is the mission of the Board?

The "practice of psychology" is defined by KRS 319.010(7):

"Practice of psychology" means rendering to individuals, groups, organizations, or the public any psychological service involving the application of principles, methods, and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning, perception, motivation, thinking, emotions, and interpersonal relationships; the methods and procedures of interviewing, counseling, and psychotherapy; and psychological testing in constructing, administering, and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotion, and motivation. The application of said principles in testing, evaluation, treatment, use of psychotherapeutic techniques, and other methods includes, but is not limited to: diagnosis, prevention, and amelioration of adjustment problems and emotional, mental, nervous, and addictive disorders and mental health conditions of individuals and groups; educational and vocational counseling; the evaluation and planning for effective work and learning situations; and the resolution of interpersonal and social conflicts.



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How does the Board act as a government?

The Board is a government agency; as such, it's mission is to protect the public.

The Board's power comes from the "police power" of the state to regulate the "health, welfare, safety, and morals" of its citizens.

The Board issues a license to practice. *A what?*

A license is:
 -- Permission from the government to do a certain thing.

The Board acts as all three branches of government. How?

What are the three branches of government?!?!?!

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How does the Board act as a government?

The Board acts as all three branches of government. How?

What are the three branches of government?!?!?!

-- Legislative branch



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How does the Board act as a government?

The Board acts as all three branches of government. How?

What are the three branches of government?!?!?!

-- Legislative branch
 -- Executive branch



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How does the Board act as a government?

The Board acts as all three branches of government. How?

What are the three branches of government?!?!?!

-- Legislative branch
 -- Executive branch
 -- Judicial branch



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How does the Board act as a government?

The Board acts as all three branches of government. This is the very core of administrative law.

Stephen Breyer, Justice, United States Supreme Court, defines administrative law in four parts. Namely, the legal rules and principles that: (1) define the authority and structure of administrative agencies; (2) specify the procedural formalities employed by agencies; (3) determine the validity of agency decisions, and; (4) define the role of reviewing courts and other governmental entities in relation to administrative agencies. State agencies have the power to *adjudicate, legislate, and enforce laws* within their specific areas of delegated power.

– from *Wikipedia*.

This is all three branches of government in one Board.

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How does the Board act as a government?

The Board acts as all three branches of government. How?

What are the three branches of government?!?!?!?

-- Legislative branch:

- 1) Board recommends legislation regarding licensed psychologists;
- 2) Board promulgates administrative regulations.

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How does the Board act as a government?

The Board acts as all three branches of government. How?

What are the three branches of government?!?!?!?

-- Legislative branch:

- 1) Board recommends legislation regarding licensed psychologists;
- 2) Board promulgates administrative regulations.

-- Executive branch:

- 1) Board enforces the law by investigating complaints;
- 2) Board enforces the law by stopping the unlicensed practice of psychology.

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How does the Board act as a government?

The Board acts as all three branches of government. How?

What are the three branches of government?!?!?!?

-- Legislative branch:

- 1) Board recommends legislation regarding psychology;
- 2) Board promulgates administrative regulations.

-- Executive branch:

- 1) Board enforces the law by investigating complaints;
- 2) Board enforces the law by stopping the unlicensed practice of psychology in the courts – psychological testing;

-- Judicial branch:

- 1) Board hears disciplinary actions like a judge or jury;

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How does the Board act as a government?

What the Board is not.

The Board is not a club; it is not any association, such as the KPA.

But, the Board is a member of the Association of State and Provincial Psychology Boards – represents other licensing boards.

The Board is a government agency. General laws which apply to it include:

- open records laws/open meetings laws
- personnel laws
- purchasing supplies and leasing office space



Who serves on the Board?

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Who comprises the Board?

Who serves on the Board? How did they get there?

Nine (9) members:

- six (6) licensed psychologists
- two (2) credentialed by the Board as certified psychologists, licensed psychological practitioners or licensed psychological associates
- one (1) member citizen at large (not associated with or financially interested in the practice or business regulated)

Licensed psychologist members are nominated by all licensed psychologists credentialed according to provision of KRS 319 from a list prepared by the Kentucky Psychological Association.

Certified psychologist, licensed psychological practitioner, or licensed psychological associate members are nominated by all certified psychologists, licensed psychological practitioners and licensed psychological associates credentialed according to provision of KRS 319 from a list prepared by the Kentucky Psychological Association.

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Who comprises the Board?

Appointed by the Governor; serves four (4) year term.

May serve two (2) consecutive terms; serves until replaced.

Majority constitutes a quorum for conducting business, i.e., five (5) of nine (9).

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How the Board issues licenses.

The Board enforces the minimal standards to be licensed.

Applicant for licensure as a "Licensed Psychologist" must:

- file written application and pay a fee
- pass an examination developed by the Association of State and Provincial Psychology Boards, the EPPP
- meet other requirements established by the Board by regulation
- doctoral degree from an accredited school
- two (2) years supervised professional experience, which no longer includes one (1) year postdoctoral – Kentucky is in a minority of states (perhaps only 10) which have eliminated the postdoctoral requirement

Note: Implications for mobility – how badly will this impair your mobility?

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How the Board takes away licenses.

A license to practice psychology is a property right.

The government cannot deprive a person of his or her "life, liberty, or property" without "due process of law."

What is "due process of law?"



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How the Board takes away licenses.

A license to practice psychology is a property right.

The government cannot deprive a person of his or her "life, liberty, or property" without "due process of law."

What is "due process of law?"

- notice and opportunity to be heard by an impartial decision maker

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How the Board takes away licenses.

Nuts and bolts of the complaint process.

The Board receives dozens of initiating complaints per year.

Many complaints are filed by members of the public (patients, families of patients, other interested parties).

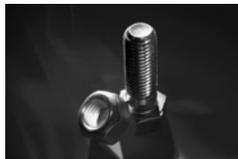


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How the Board takes away licenses.

Nuts and bolts of the complaint process.

"Tacky?" or "violation of law?" – this is a basic framework, perhaps.



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How the Board takes away licenses.

Nuts and bolts of the complaint process.

Powers of the Board – KRS 319.082:

(1) The Board may suspend, revoke, or refuse to issue or renew a license; may accept an assurance of voluntary compliance; restrict, or place a credential holder [psychologist] on probation; or issue an administrative reprimand or private admonishment upon proof that the credential holder has:

(a) Committed any act involving moral turpitude, dishonesty, or corruption, relating to the practice of psychology, whether the act constitutes a crime or not. . . . [C]onviction includes all instances in which a plea of guilty or *nolo contendere* is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended;

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How the Board takes away licenses.

- (b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement thereof;
- (c) Committed any unfair, false, misleading, or deceptive act or practice;
- (d) Been incompetent or negligent in the practice of psychology;
- (e) Practiced psychology while under the suspension, revocation, or restriction of the individual's license to practice by competent authority in any state, federal or foreign jurisdiction;



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How the Board takes away licenses.

- (f) Violated any state statute or administrative regulation governing the practice of psychology (see Code of Conduct);
- (g) Unlawfully failed to cooperate with the Board by:
 - (1) Not furnishing any papers or documents requested by the Board;
 - (2) Not furnishing in writing a complete explanation covering the matter contained in the complaint filed with the Board;

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How the Board takes away licenses.

- (3) Not appearing before the Board at the time and place designated; or
- (4) Not properly responding to subpoenas issued by the Board;
- (h) Failed to comply with an order issued by the Board or an assurance of voluntary compliance;
- (i) Aided or abetted an unlicensed person to practice when a license or certificate is required;



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How the Board takes away licenses.

- (j) Grossly overcharged for professional services;
- (k) Practiced beyond the scope demonstrated by an appropriate combination of knowledge, skill, experience, training, and education;
- (l) Failed to provide adequate supervision for certified psychologists, licensed psychological associates, applicants for licensure, or other staff;



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How the Board takes away licenses.

- (m) Been convicted of any misdemeanor or felony relating to the practice of psychology. . . . [C]onviction includes all instances in which a plea of guilty or *nolo contendere* is the basis for conviction and all proceedings in which the sentence has been deferred or suspended;
- (n) Physically abused or had sexual contact with a patient, client, student or supervisee;



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How the Board takes away licenses.

- (o) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a client, patient, or student, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or been found by the Board to have had sexual contact as defined in KRS 510.010 with a client, patient, student or supervisee;
- (p) Improperly divulged confidential information;



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How the Board takes away licenses.

(q) Exercised undue influence in such a manner as to exploit the client, patient, student or supervisee for financial or other personal advantage to the practitioner or a third party;

(r) Showed an inability to practice psychology with reasonable skill and safety to patient or clients by reason of illness, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition; or

Where is this person? →



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How the Board takes away licenses.

(s) Failed to comply with the requirements of the Board for continuing education.

(2) Private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(l) and shall not constitute disciplinary action, but may be used by the Board for statistical purposes or in subsequent disciplinary actions against the credential holder or applicant.



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How the Board takes away licenses.

(3) No unlawful act or violation of any provision of this chapter by any credential holder employed or supervised by a licensed psychologist shall be cause for the revocation of the supervisor's license, unless the Board finds that the licensed psychologist had knowledge of it.



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How the Board reinstates a revoked license.

(4) Three (3) years from the date of a revocation, any person whose license has been revoked may petition the Board for reinstatement. The Board shall investigate his or her petition and may reinstate his or her license upon finding that the former licensee has complied with the provisions of this chapter and administrative regulations promulgated by the Board and is again able to engage in the practice of psychology with reasonable skill, competency and safety to the public.

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How the Board reinstates a revoked license.

(5) The Board may, at its own discretion, reconsider, modify, or reverse its probations, suspensions, revocations, restrictions, or refusals to issue or renew licenses at any time.

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Administrative Hearings, Sanctions, and Appeals

KRS 319.092:

- (1) In every proceeding for probation, suspension or revocation of a license, an administrative hearing shall be conducted under KRS 13B.
- (2) All decisions revoking or suspending a license or placing a credential holder on probation shall be made by the Board.
- (3) If, after a hearing, a majority of the Board finds that a credential holder has violated any provision of KAR 319, the Board may:



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Administrative Hearings, Sanctions, and Appeals

- (a) Revoke or suspend the license
- (b) Impose monetary penalty not to exceed \$2,000.00 per violation
- (c) Revoke or suspend the license or impose monetary penalty, but suspend enforcement thereof by placing the credential holder on probation, which shall be revocable if the Board finds the conditions of the probation order are not being followed by the credential holder



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Administrative Hearings, Sanctions, and Appeals

- (d) Require credential holder, as a condition of probation, to submit to care, counseling, or treatment by professional designated by Board, or require credential holder to be supervised by licensed psychologist designated by Board. The expense of this action shall be borne by the credential holder on probation.



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Administrative Hearings, Sanctions, and Appeals

- (e) Modify the conditions of probation, with good cause, and may include among them any reasonable condition for the purpose of the protection of the public, or for the purpose of the rehabilitation of the probationer, or both
- (f) Require restitution
- (g) Assess the costs of the disciplinary proceeding (defined by administrative regulation to be the court reporter and hearing officer)

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Administrative Hearings, Sanctions, and Appeals

- (4) If Board substantiates that sexual contact occurred between a credential holder and a patient while the patient was under the care or in a professional relationship with the credential holder, the credential holder's license may be revoked or suspended with mandatory treatment of that individual as prescribed by the Board. The Board may require the credential holder to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.



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Administrative Hearings, Sanctions, and Appeals

- (5) Final orders of the Board suspending or revoking a license or placing a credential holder on probation shall become effective immediately after written notice is served on the credential holder and the credential holder shall not, after notice of same, engage or continue to engage in the practice of psychology unless the Board's final order is revoked or modified by the court after judicial review.



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Administrative Hearings, Sanctions, and Appeals

- (6) The Board shall make public its final order in all disciplinary actions.
- (7) Any person aggrieved by a final order of the Board may appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.



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Code of Conduct -- 201 KAR 26:145

Establishes requirements for disciplining a credential holder of this Board.

Establishes a code of conduct for a person practicing psychology.



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Code of Conduct -- 201 KAR 26:145

Section 1. Definitions:

- (1) Client
- (2) Confidential Information
- (3) Court Order
- (4) Credential holder
- (5) Professional relationship
- (6) Professional Service
- (7) Supervisee



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Code of Conduct -- 201 KAR 26:145

Section 2. Client Requirements:

- (1) Identification of a client
- (2) Corporate entity
- (3) Legal guardian of a minor or legally incompetent adult
- (4) Continues to be client for two (2) years following last date of service to person



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Code of Conduct -- 201 KAR 26:145

Section 3. Competence:

- (1) Limits on practice
- (2) Maintaining competency
- (3) Adding new services and techniques
- (4) Referral
- (5) Sufficient professional information
- (6) Maintenance and retention of records
- (7) Continuity of care



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Code of Conduct -- 201 KAR 26:145

Section 4. Impaired objectivity and dual relationships:

- (1) Impaired psychologist.
 - (a) Prohibition on undertaking or continuing the professional relationship if the psychologist's objectivity or competency is impaired due to various conditions of the psychologist
 - (b) If impairment develops, then terminate, notify, assist
- (2) Prohibited dual relationships.
 - (a) Prohibition on undertaking or continuing the professional relationship if the psychologist's objectivity or competency is impaired due to present or previous relationships of the client, or relevant person
 - (b) Psychologist shall not:
 1. engage in verbally/physically sexual behavior that is seductive, demeaning, exploitive
 2. engage in sexual intercourse/other physical intimacy
 3. enter into a potentially exploitative relationship
 - (c) Prohibitions may be indefinite in time

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Code of Conduct -- 201 KAR 26:145

Section 5. Client Welfare:

- (1) Providing explanation of procedures
- (2) Termination of services
- (3) Stereotyping
- (4) Solicitation of business by clients
- (5) Referrals on request



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Code of Conduct -- 201 KAR 26:145

Section 6. Welfare of Supervisees and research subjects:

- (1) No exploitation of supervisee
- (2) Respect the dignity and respect the welfare of research subjects, and obey all laws concerning treatment of research subjects



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Code of Conduct -- 201 KAR 26:145

Section 7. Protecting the confidentiality of clients:

- (1) General – safeguard confidential information and obtaining informed written consent
- (2) Disclosure without informed written consent
- (3) Disclosure if client is corporation or other organization
- (4) Services involving more than one (1) interested party
- (5) Multiple clients
- (6) Legally dependent clients
- (7) Limited access to client records
- (8) Release of confidential information
- (9) Reporting of abuse of children and vulnerable adults

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Code of Conduct -- 201 KAR 26:145

Section 7, continued. Protecting the confidentiality of clients:

- (10) Discussion of client information among professionals
- (11) Disguising confidential information
- (12) Observation and electronic recording
- (13) Confidentiality after termination of professional relationship



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Code of Conduct -- 201 KAR 26:145

Section 8. Representation of services:

- (1) Display of credentials
- (2) Misrepresentation of qualifications
- (3) Misrepresentation of affiliations
- (4) False or misleading information
- (5) Misrepresentation of services or products



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Code of Conduct -- 201 KAR 26:145

Section 9. Disclosure of cost of services:

Psychologist shall not mislead or withhold from a client, prospective client, or third party payor, information about the cost of his or her professional services



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Code of Conduct -- 201 KAR 26:145

Section 10. Assessment procedures:

- (1) Confidential information
- (2) Protection of integrity of assessment procedures
- (3) Information for professional users



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Code of Conduct -- 201 KAR 26:145

Section 11. Aiding illegal practice:

- (1) Delegating professional responsibility
- (2) Providing supervision



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How the Board takes away licenses.

Nuts and bolts of the complaint process.

The Board splits into a "grand jury" and "jury" function.

The Board's "grand jury" is called the "Complaints Screening Committee."

This consists of three (3) Board members.



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How the Board manages complaints.

Nuts and bolts of the complaint process.

initiating complaints vs. formal complaints – what's the difference?

- a complaint may be initiated by "the Board, the public, or *governmental agency*."
- shall be in writing, signed, dated, and "clear and concise"
- copy is mailed to the licensee for response



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How the Board manages complaints.

Nuts and bolts of the complaint process.

- Complaints Screening Committee either dismisses or investigates
- what is an investigation? who, where, what, when?
- Complaints Screening Committee considers investigation and either dismisses or files charges
- if charges are filed, then this starts the statutorily authorized, due-process, administrative disciplinary hearing

During this process, cases are referred to by number before the full Board.

Why? This procedure protects the integrity of the process.

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How the Board manages complaints.

Nuts and bolts of the complaint process – practical aspects.

Dismissal of an initiating complaint at any stage:

- initiating complaint and closure letter remain in the file of the psychologist.

Private Admonishment:

- violation of law, but minor one; right to a hearing and "due process."
- not subject to disclosure to the public
- does not constitute discipline

Formal Complaint:

- charges the psychologist with a violation(s) of law
- starts a statutorily authorized, due process administrative hearing
- Board requests assignment of a Hearing Officer who presides over the Board like a judge presides over a jury

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How the Board takes away licenses.

Nuts and bolts of the hearing process – practical aspects.

The Board may: "revoke or suspend" a license or take lesser action by implication, such as probating a suspension.

The Board may attach conditions of probation – anything rationally related to the legitimate government purpose of protecting the public.

The Board may settle cases and may use mediation to do so.



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How the Board takes away licenses.

Nuts and bolts of the hearing process – practical aspects.

The Board may settle cases and may use mediation to do so:
 -- the Board may get anything by agreement.

Mandatory aspects of "discipline:"
 -- written agreement approved by Board by majority vote
 -- counts as disciplinary action
 -- becomes a public record
 -- reported to a national data bank
 -- marked "yes" to "discipline?" on Board web site

What if the case doesn't settle?

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How the Board takes away licenses.

Nuts and bolts of the hearing process – practical aspects.

What if the case doesn't settle?
 -- this gets expensive and time consuming
 -- lots of lawyer time involved
 -- you may represent yourself, you may hire a lawyer, you may have one provided (with some limitations) by your malpractice carrier
 -- a hearing is held by the Board via its Hearing Officer, Hearing Panel, or with the full Board
 -- a hearing is like a trial, with witnesses testifying, exhibits introduced, and expert witnesses testifying
 -- the Hearing Officer and Board members may ask you questions
 -- on the record, under oath
 -- final decision always made by the full Board
 -- subject to judicial appeal by the licensee

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What is new with the law -- statutes?

House Bill 488

Sponsored by Rep. Scott W. Brinkman (R), Jefferson Co., and Rep. Mary Lou Marzian, (D), Jefferson Co.

-- Passed the House or Representatives 95-0
 -- Passed the Senate 37-0
 -- Signed by Governor Steve Beshear on March 30, 2010

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What is new with the law -- statutes?

House Bill 488

What does it do? What changes are there in the law?

-- adds "Interjurisdictional Practice Certificate" developed by ASPPB
 -- adds "psychological testing" to the definition of the "practice of psychology"

Note: psychological testing was basically covered as "constructing, administering, and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotion, and motivation"

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What is new with the law -- statutes?

House Bill 488

What does it do? What changes are there in the law?

-- clarifies the practice act exemptions for teaching psychology, conducting psychological research, providing consultation services to organizations or institutions, and providing expert testimony but not if such activities involve the "delivery or supervision of direct psychological services to individuals or groups"

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What is new with the law -- statutes?

House Bill 488

What does it do? What changes are there in the law?

-- continues to exempt other licensed professions and includes:
 "The use of written or computerized interpretations of any psychological testing or the administration and use of symptomatic and behavioral assessments by a practitioner of the healing arts as defined in KRS 311.271(2), clinical social worker, marriage and family therapist, professional art therapist, advanced practice registered nurse, physician, physical therapist, or occupational therapist who uses these interpretations or administers and uses these assessments shall not be limited."

But still, the title protections of "psychology" apply:
 "They shall not represent themselves to be psychologists or use the term 'psychological' in describing their services"

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What is new with the law -- statutes?

House Bill 488

What does it do? What changes are there in the law?

- increases continuing education requirements from 30 contact hours every 3 years to 39 contact hours every 3 years, starting "with renewals occurring after June 30, 2013" – your next renewal after June 30, 2013, will have to include proof of 39 contact hours

What does this mean?

- this 90 minute continuing education session will have to expand to 117 minutes to add enough time to meet the extra contact hour requirement!

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What is new with the law -- statutes?

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What is new with the law -- statutes?

House Bill 488

What does it do? What changes are there in the law?

- eliminates the postdoctoral year of supervised experience

What does this mean?

- 2 years of supervised professional experience, 1 year shall be an internship
- to be defined by administrative regulation to be filed by the Board
- may hinder mobility between the states, especially for Kentucky psychologists who wish to be licensed in another state
- may eliminate the need for temporary licensure

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What is new with the law -- statutes?

House Bill 488

What does it do? What changes are there in the law?

- Health Service Provider will require, effective July 1, 2013, the completion of "1 year of supervised experience under conditions of temporary licensure approved by the Board, or 1 year of supervised experience acceptable to the Board after achieving licensure status as a licensed psychologist"
- Health Service Provider allows, effective July 1, 2013, the psychologist to supervise "direct health care services by applicants, certified psychologists, and psychological associates, and no more than 6" of them at a time

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What is new with the law -- statutes?

House Bill 488

What does it do? What changes are there in the law?

- defines the Kentucky part of the required examination to cover "psychological practice, ethical principals, and the law"

While there is much that has not changed, one change you may wish to know about – House Bill 488, and the administrative regulations, will not be raising any fees at this time

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What is new with the law -- regulations?

What changes are there in the administrative regulations?

Amended administrative regulations – effective March 4, 2011:

- 201 KAR 26:115. Definition of Psychological Testing.
- 201 KAR 26:121. Scope of practice and dual credentialing.
- 201 KAR 26:125. Health service provider designation.
- 201 KAR 26:130. Complaint procedure.
- 201 KAR 26:155. Licensed psychologist: application procedures and temporary license.
- 201 KAR 26:171. Requirements for supervision.
- 201 KAR 26:175. Continuing education.
- 201 KAR 26:180. Requirements for granting licensure as a psychologist by reciprocity.

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What is new with the law -- regulations?

What changes are there in the administrative regulations? Continued.....

Amended administrative regulations – effective March 4, 2011:

201 KAR 26:185. Requirements for granting licensure as a psychologist to an applicant licensed in another state.
 201 KAR 26:190. Requirements for supervised professional experience.
 201 KAR 26:200. Definitions of terms used by the Board of Examiners of Psychologists for meeting educational requirements for licensure as a licensed psychologist.
 201 KAR 26:215. Nonresident status.
 201 KAR 26:230. Examinations.
 201 KAR 26:270. Change of license status.
 201 KAR 26:290. Licensed psychological practitioner: application procedures.

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What is new with the law -- regulations?

What changes are there in the administrative regulations? Continued.....

New administrative regulation – effective March 4, 2011:

201 KAR 26:310. Telehealth and telepsychology.

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What is new with the law -- regulations?

Amended administrative regulations – effective March 4, 2011:

201 KAR 26:115. Definition of Psychological Testing.

This existing administrative regulation was amended specifically to reference back to the new addition of "psychological testing" within the definition of the "practice of psychology" in KRS 319.010(7).

The same provisions and protections of psychological testing remain in this amended administrative regulation as applied to psychologists.

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What is new with the law -- regulations?

Amended administrative regulations – effective March 4, 2011:

201 KAR 26:121. Scope of practice and dual credentialing.

This existing administrative regulation was amended to include "Licensed Psychologists" along with the other credential holders of the Board, such as those with Health Service Provider designation, a certified psychologist with autonomous functioning, a certified psychologist, a licensed psychologist associate, or a licensed psychological practitioner .

76

What is new with the law -- regulations?

Amended administrative regulations – effective March 4, 2011:

201 KAR 26:125. Health service provider designation.

Requires in addition to the supervised experience required for licensure as a licensed psychologist:
 1,800 hours of supervised experience within one or more health care settings in which the provider delivered direct psychological health care services, pursuant to Section 2 of this administrative regulation; or
 The licensed psychologist holds the Certificate of Professional Qualification (CPQ) issued by the Association of State and Provincial Psychology Boards (ASPPB), or is board-certified by the American Board of Professional Psychology (ABPP), or the licensed psychologist holds a Certificate from the National Register of Health Service Providers in Psychology and has a minimum equivalent of five years of full time practice at the independent practice level and has had no disciplinary action taken by a licensure board or on record in the ASPPB data base.

77

What is new with the law -- regulations?

Amended administrative regulations – effective March 4, 2011:

201 KAR 26:130. Complaint procedure.

This administrative regulation was amended to update terminology ("license holder" vs. "credential holder") and to include "governmental agency" instead of "state agency" in the list of who may file an initiating complaint.

Also, this administrative regulation now specifically includes the process where a copy of the initiating complaint is mailed to the psychologist for a written response – something the Board was already doing. Prior law simply said that the document would be "made available" prior to an interview, if any.

Finally, this administrative regulation recognizes the complaints committee, a "panel of the Board" to review complaint matters.

78

What is new with the law -- regulations?

Amended administrative regulations – effective March 4, 2011:

201 KAR 26:155. Licensed psychologist: application procedures and temporary license.

This administrative regulation amends the timeframes to apply for a license or temporary license to be based upon the supervised experience required by law.

79

What is new with the law -- regulations?

Amended administrative regulations – effective March 4, 2011:

201 KAR 26:171. Requirements for supervision.

This administrative regulation amended the continuing education requirements for psychologists who have Board-approved supervision, and the periods of reporting for those supervisees.

Also, the supervision of graduate students in training programs in psychology recognizing those who supervise are licensed at the doctoral level by the State Board of Examiners in the state in which the training program exists, or by a licensed mental health professional approved by the training program.

80

What is new with the law -- regulations?

Amended administrative regulations – effective March 4, 2011:

201 KAR 26:175. Continuing education.

This administrative regulation amends the number of contact hours required:

“Commencing on the first license renewal date after June 30, 2013, each license holder shall document the completion of at least thirty-nine (39) continuing education hours approved by the board within the three (3) year renewal period and for each subsequent renewal period.”

Psychologists may receive up to nine hours for teaching activities (up from six) and may receive up to twelve hours for home study or internet based courses (up from six) every three years – this is effective March 4, 2011.

81

What is new with the law -- regulations?

Amended administrative regulations – effective March 4, 2011:

201 KAR 26:180. Requirements for granting licensure as a psychologist by reciprocity.

This administrative regulation amends the requirements for licensure when the psychologist holds a license issued by another state, and further recognizes “the certificate from the National Register of Health Service Providers in Psychology or a successor organization” and has a minimum equivalent of five years of full-time practice at the independent practice level and has had no disciplinary action taken by a licensure board or on record in the ASPPB data base. It also allows for a Board equivalency to the 1,800 hours of supervised experience, post-doctoral.

82

What is new with the law -- regulations?

Amended administrative regulations – effective March 4, 2011:

201 KAR 26:185. Requirements for granting licensure as a psychologist to an applicant licensed in another state.

This administrative regulation amends the requirements for licensure when the psychologist is licensed by another state, a state which does not have a reciprocity agreement with Kentucky.

83

What is new with the law -- regulations?

Amended administrative regulations – effective March 4, 2011:

201 KAR 26:190. Requirements for supervised professional experience.

This administrative regulation was amended to update the requirements for supervised experience. This includes the equivalent of two years of supervised professional experience acceptable to the board, one year of the supervised professional experience shall be a predoctoral internship of 1,800 hours with at least 100 hours of supervisory sessions, the other 1,800 hours of supervised experience may be predoctoral, postdoctoral or a combination of pre- and postdoctoral supervised professional experience acceptable to the board. upervised experience earned in the doctoral training program shall consist of practica, field placement or other professional experiences not including the beginning courses and accompanying practica in assessment and treatment techniques.

84

What is new with the law -- regulations?

Amended administrative regulations – effective March 4, 2011:

201 KAR 26:190. Requirements for supervised professional experience, continued.

This administrative regulation was also amended to require at least 50% of the supervised professional experience shall be in service-related activities, such as treatment, assessment, interviews, report-writing, case presentations, and consultations. Of the 1,800 hours of supervised experience earned in the doctoral training program, there shall be a minimum of 100 hours of supervisory sessions. At least 75% of these supervisory sessions (75 hours) shall be done with a licensed psychologist supervisor, at least one-third of which (25 hours) shall be conducted in an individual, face-to-face format. The other 25% of the supervisory sessions (25 hours) may be done with a licensed mental health professional. Of the total supervision hours, no more than 50% (50 hours) may be done via secure interactive videoconferencing.

85

What is new with the law -- regulations?

Amended administrative regulations – effective March 4, 2011:

201 KAR 26:200. Definitions of terms used by the Board of Examiners of Psychologists for meeting educational requirements for licensure as a licensed psychologist.

This administrative regulation amended the core competencies required for the educational program, as well as mandating: "A minimum of one full academic year must be spent in residence at the institution."

86

What is new with the law -- regulations?

Amended administrative regulations – effective March 4, 2011:

201 KAR 26:215. Nonresident status.

This administrative regulation was amended to include:

(1) A nonresident psychologist temporarily employed in the state may render psychological services for no more than thirty (30) days every two (2) years immediately upon notification of the board that the nonresident psychologist:

- (a) holds the Interjurisdictional Practice Certificate (IPC) issued by the Association of State and Provincial Psychology Boards (ASPPB) or a successor organization; or
- (b) holds the Certificate of Professional Qualification (CPQ) issued by ASPPB or a successor organization; or
- (c) is board-certified by the American Board of Professional Psychology (ABPP) or a successor organization; or
- (d) is licensed in a jurisdiction with whom this Board has established reciprocity.

87

What is new with the law -- regulations?

Amended administrative regulations – effective March 4, 2011:

201 KAR 26:230. Examinations.

This administrative regulation was amended to update the EPPP requirements as well as the Kentucky mental health law examination and oral examination requirements.

88

What is new with the law -- regulations?

Amended administrative regulations – effective March 4, 2011:

201 KAR 26:270. Change of license status.

This administrative regulation was amended to update and reference the structured examinations on Kentucky mental health law, ethical principles and professional practice.

89

What is new with the law -- regulations?

Amended administrative regulations – effective March 4, 2011:

201 KAR 26:290. Licensed psychological practitioner: application procedures.

This administrative regulation was amended to update the application procedures for the Licensed Psychological Practitioner credential.

This now specifically references the structured examinations on Kentucky mental health law, ethical principles and professional practice.

90

What is new with the law -- regulations?
<p>New administrative regulations – effective March 4, 2011:</p> <p>201 KAR 26:310. Telehealth and telepsychology.</p> <p>This new administrative regulation defines telepsychology and mandates standards in the following areas:</p> <ol style="list-style-type: none"> 1) the client requirements of 201 KAR 26:310, § 2; 2) the competence, limits on practice, maintenance, and retention of records of 201 KAR 26:310, § 3; 3) the compliance with federal, state, and local law of 201 KAR 26:310, § 4, and; 4) the representation of services and code of conduct of 201 KAR 26:310, § 5. <p style="text-align: right;">91</p>

What is new with the law -- regulations?
<p>New administrative regulations – effective March 4, 2011:</p> <p>201 KAR 26:310. Telehealth and telepsychology. Client requirements.</p> <p>A credential holder using telehealth to deliver psychological services or who practices telepsychology shall, upon initial contact with the client:</p> <ol style="list-style-type: none"> (1) make reasonable attempts to verify the identity of the client; (2) obtain alternative means of contacting the client other than electronically; (3) provide to the client alternative means of contacting the credential holder other than electronically; (4) document whether the client has the necessary knowledge and skills to benefit from the type of telepsychology provided by the credential holder; (5) use secure communications with clients, including encrypted text messages via e-mail or secure websites, and not use personal identifying information in non-secure communications; <p style="text-align: right;">92</p>

What is new with the law -- regulations?
<p>New administrative regulations – effective March 4, 2011:</p> <p>201 KAR 26:310. Telehealth and telepsychology. More client requirements:</p> <ol style="list-style-type: none"> (6) inform the client in writing about: <ol style="list-style-type: none"> (a) the limitations of using technology in the provision of telepsychology; (b) potential risks to confidentiality of information due to technology in the provision of telepsychology; (c) potential risks of disruption in the use of telepsychology; (d) when and how the credential holder will respond to routine electronic messages, and; (e) in what circumstances the credential holder will use alternative communications for emergency purposes; (f) who else may have access to client communications with the credential holder; (g) how communications can be directed to a specific credential holder; (h) how the credential holder stores electronic communications from the client, and; (i) the reporting of clients required by 201 KAR 26:145 § 7(9). <p style="text-align: right;">93</p>

What is new with the law -- regulations?
<p>New administrative regulations – effective March 4, 2011:</p> <p>201 KAR 26:310. Telehealth and telepsychology. Competence, limits on practice, maintenance and retention of records.</p> <p>A credential holder using telehealth to deliver psychological services or who practices telepsychology shall:</p> <ol style="list-style-type: none"> (1) limit the practice of telepsychology to the area of competence in which proficiency has been gained through education, training, and experience; (2) maintain current competency in the practice of telepsychology through continuing education, consultation, or other procedures, in conformance with current standards of scientific and professional knowledge; (3) document the client's presenting problem, purpose, or diagnosis; (4) follow the record-keeping requirements of 201 KAR 26:145 § 3(6)(a)1-6, and; (5) ensure that confidential communications obtained and stored electronically cannot be recovered and accessed by unauthorized persons when the credential holder disposes of electronic equipment and data. <p style="text-align: right;">94</p>

What is new with the law -- regulations?
<p>New administrative regulations – effective March 4, 2011:</p> <p>201 KAR 26:310. Telehealth and telepsychology. Compliance with federal, state, and local law.</p> <p>A credential holder using telehealth to deliver psychological services or who practices telepsychology shall:</p> <ol style="list-style-type: none"> (1) comply with state law where the credential holder is credentialed and be licensed to practice psychology where the client is domiciled, and; (2) comply with Section 508 of the Rehabilitation Act, 29 U.S.C. 794(d), to make technology accessible to a client with disabilities; <p style="text-align: right;">95</p>

What is new with the law -- regulations?
<p>New administrative regulations – effective March 4, 2011:</p> <p>201 KAR 26:310. Telehealth and telepsychology. Representation of services and Code of Conduct.</p> <p>A credential holder using telehealth or telepsychology:</p> <ol style="list-style-type: none"> 1) shall not by or on behalf of the credential holder engage in false, misleading, or deceptive advertising of telepsychology; 2) shall comply with 201 KAR 26:145. <p style="text-align: right;">96</p>

QUESTIONS?