

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

A Bill

HOUSE BILL 2105

5 By: Representatives Bradford, Mahony
6 By: Senators Steele, J. Jeffress
7

For An Act To Be Entitled

10 AN ACT TO CLARIFY THE PRACTICE OF
11 NEUROPSYCHOLOGY; TO PROVIDE FOR THE HIRING OF
12 TECHNICIANS BY PSYCHOLOGISTS PRACTICING
13 NEUROPSYCHOLOGY; AND FOR OTHER PURPOSES.
14

Subtitle

15 AN ACT TO REGULATE THE PRACTICE OF
16 NEUROPSYCHOLOGY AND TECHNICIANS.
17
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 17-97-102 is amended to read as follows:
23 17-97-102. Definitions—~~Levels of practice of psychology.~~

24 (a)(1) "Neuropsychology" means the art and science of brain-behavior
25 relationships.

26 (2) A neuropsychologist is a licensed psychologist with special
27 expertise in the applied science of brain-behavior relationships whose
28 statement of intent to practice psychology:

29 (A) Has been approved by the Arkansas Psychology Board;
30 and

31 (B) Includes the practice of neuropsychology.

32 (3) A neuropsychologist uses his or her knowledge of brain-
33 behavior relationships in the assessment, diagnosis, treatment, and
34 rehabilitation of patients across their lifespans with neurological, medical,
35 neurodevelopmental, and psychiatric, and other cognitive and learning
36 disorders.



1 (4)(A) The neuropsychologist uses psychological, neurological,
2 cognitive, behavioral, and physiological principles, techniques, and tests to
3 evaluate patients' neurocognitive, behavioral, and emotional strengths and
4 weaknesses and their relationship to normal and abnormal central nervous
5 system functioning.

6 (B) The neuropsychologist uses this information and
7 information provided by other medical care and healthcare providers to:

8 (i) Identify and diagnose neurobehavioral disorders;
9 and

10 (ii) Plan and implement intervention strategies.

11 (5) The specialty of neuropsychology is recognized by the
12 American Psychological Association and the Canadian Psychological
13 Association.

14 (6) Neuropsychologists are independent practitioners and
15 independent healthcare providers of neuropsychology and psychology.

16 (7) The clinical neuropsychologist has at a minimum:

17 (A) Completed a doctoral degree in psychology from a
18 regionally accredited institution;

19 (B) Successfully completed an internship, or its
20 equivalent, in a clinically relevant area of professional psychology; and

21 (C)(i) The equivalent of two (2) fulltime years of
22 experience and specialized training, at least one (1) of which is at the
23 post-doctoral level, in the study and practice of clinical neuropsychology
24 and related neurosciences.

25 (ii) These two (2) years shall include supervision
26 by a clinical neuropsychologist.

27 (8)(i) As of the effective date of this subsection (a), those
28 licensed psychologists who have a statement of intent to practice
29 neuropsychology on file with the board shall be considered to have met the
30 provisions of this subsection (a).

31 (ii) As of the effective date of this subsection (a), the
32 Arkansas Psychology Board shall promulgate rules to develop fair and
33 reasonable procedures to ensure that those persons functioning as technicians
34 on the effective date of this subsection (a) may continue to work as
35 technicians in accordance with the spirit and intent of this chapter to
36 restrict the duties of technicians to neuropsychological test administration

1 and scoring only.

2 ~~(a)(1)(b)(1)~~ "Practice of psychology" means the observation,
3 description, evaluation, interpretation, or modification of human behavior by
4 a person who holds an advanced graduate degree in psychology and is trained
5 in the application of psychological principles, methods, or procedures for
6 one (1) or more of the following purposes:

7 (A) Preventing or eliminating symptomatic, maladaptive, or
8 undesired behavior;

9 (B) Enhancing interpersonal relationships, work and life
10 adjustment, personal effectiveness, and behavioral and mental health; and

11 (C) Consultation, teaching, and research.

12 (2) "Practice of psychology" includes, but is not limited to:

13 (A) Testing and measuring, that consist of the
14 administration and interpretation of tests measuring personal
15 characteristics, such as intelligence, personality, abilities, interests,
16 aptitudes, achievements, motives, personality dynamics, psychoeducational
17 processes, neuropsychological brain functioning, and other psychological
18 attributes of individuals or groups;

19 (B)(i) Diagnosis and treatment of mental and emotional
20 disorders, that consist of the appropriate diagnosis of mental disorders,
21 behavior disorders, and brain dysfunctions, according to standards of the
22 profession and the ordering or providing of treatments according to need.

23 (ii) Treatment includes, but is not limited to,
24 providing:

- 25 (a) Counseling;
- 26 (b) Psychotherapy;
- 27 (c) Marital and family therapy;
- 28 (d) Group therapy;
- 29 (e) Behavior therapy;
- 30 (f) Psychoanalysis;
- 31 (g) Hypnosis;
- 32 (h) Biofeedback;
- 33 (i) Other psychological interventions that aim
34 to modify and adjust perceptions, habits, or conduct; and
- 35 (j) The psychological aspects of physical
36 illness, pain, injury, or disability; and

- 1 (C) Psychological consulting, which consists of:
 2 (i) Interpreting or reporting on scientific theory
 3 or research in psychology;
 4 (ii) Rendering expert psychological opinion or
 5 clinical psychological opinion;
 6 (iii) Evaluating and engaging in applied
 7 psychological research;
 8 (iv) Program or organizational development; and
 9 (v) Administration, supervision, and evaluation of
 10 psychological services.

11 (3)(A) The practice of psychology may be rendered to
 12 individuals, families, groups, organizations, institutions, and the public.

13 (B) The practice of psychology may be rendered whether or
 14 not payment is received for services rendered.

15 ~~(b)(1)(c)(1)~~ Unless the context otherwise requires, two (2) levels of
 16 psychological practice are defined for the purpose of this chapter. The
 17 levels are to be known and are referred to as "psychological examiner" and
 18 "psychologist".

19 (2)(A) A person practices as a "psychological examiner" within
 20 the meaning of this chapter when he or she holds himself or herself out to be
 21 a psychological examiner or renders to individuals or to the public for
 22 remuneration any service involving the practice of psychology.

23 (B) Psychological examiners independently provide services
 24 such as interviewing or administering and interpreting tests of mental
 25 abilities, aptitudes, interests, and personality characteristics for the
 26 purposes of psychological evaluation to assist in the determination of
 27 educational or vocational selection, guidance, or placement.

28 (C) Other than those psychological services listed in
 29 subdivision (b)(2)(B) of this section, the psychological examiner provides
 30 psychological services only under the supervision of a qualified
 31 psychologist.

32 (3) A person practices as a "psychologist" within the meaning of
 33 this chapter when he or she holds himself or herself out to be a psychologist
 34 or renders to individuals or to the public for remuneration any service
 35 involving the practice of psychology.

36 ~~(e)(d)~~ Nothing in this section shall be construed as permitting the

1 practice of psychology or neuropsychology to infringe on the practice of
 2 medicine as defined by the Arkansas Medical Practices Act, §§ 17-95-201 et
 3 seq., 17-95-301 et seq., and 17-95-401 et seq.

4
 5 SECTION 2. Arkansas Code § 17-97-301 is amended to read as follows:
 6 17-97-301. Legislative intent -- License required.

7 (a) The General Assembly intends this section to:

8 (1) Require all psychology service providers to conform to the
 9 licensing requirements of this chapter; and

10 (2) By conforming, protect the public's health and welfare by
 11 ensuring competence in the delivery of those services.

12 ~~(a)(b)~~ If any person shall practice or hold himself or herself out to
 13 the public as being engaged in the practice of psychology, such as clinical,
 14 consulting, industrial, personnel, or counseling psychology, and shall not
 15 then possess in full force and virtue a valid license to practice as
 16 psychological examiner or psychologist under the provisions of this chapter,
 17 the person shall be deemed guilty of a misdemeanor.

18 ~~(b)(c)~~ Upon conviction the person shall be fined not less than five
 19 hundred dollars (\$500) nor more than one thousand dollars (\$1000).

20
 21 SECTION 3 . Arkansas Code § 17-97-302, concerning applications for
 22 licensure as a psychologist, is amended to add an additional subsection to
 23 read as follows:

24 (d) In addition to all other requirements of this section, a person
 25 who applies to practice neuropsychology shall include with the application
 26 documentation of both credentials and doctoral training as that documentation
 27 existed during the year of the person's doctoral graduation.

28
 29 SECTION 4. Arkansas Code Title 17, Chapter 97, is amended to add an
 30 additional subchapter to read as follows:

31 17-97-401. Technicians employed by neuropsychologists --Supervision.

32 (a)(1) Technicians may be employed by licensed clinical
 33 neuropsychologists in the practice of neuropsychology.

34 (2)(A) Individuals employed as technicians may only be employed
 35 in neuropsychological testing and shall be restricted to the administration
 36 and scoring of standardized objective tests.

1 (B) Individuals employed as technicians may not administer
 2 or score projective tests.

3 (b)(1) A technician shall have a bachelor's degree from a regionally
 4 accredited institution, preferably with a major in psychology.

5 (2) The basic educational background of a technician shall
 6 include passing grades from instruction in:

- 7 (A) Abnormal psychology;
- 8 (B) Personality;
- 9 (C) Psychological statistics; and
- 10 (D) Psychological testing.

11 (3) For purposes of this subsection (a), "passing grade" means:

- 12 (A) "C" in a letter grading system;
- 13 (B) "Pass" in a pass/fail system; or
- 14 (C) "Satisfactory" in a satisfactory/unsatisfactory
 15 grading system.

16 (4) Technicians who have completed degrees with non-psychology
 17 majors shall have completed passing grades in course-work in these areas.

18 (5) Technicians employed by psychologists practicing
 19 neuropsychology who do not have this academic background shall be provided
 20 with specific information to supplement their training in neuropsychological
 21 test administration.

22 (c) In addition to formal university or college-based preparation,
 23 technicians shall demonstrate training and instruction in the numerous areas
 24 that pertain to their role as a technician as established by the Arkansas
 25 Psychology Board.

26 (d) It is the intent of this section that:

27 (1) Every effort shall be made to employ only those
 28 applicants with degrees in psychology; and

29 (2) For those employees who do not possess a degree in
 30 psychology, the technician, before engaging in service delivery, shall have
 31 successfully completed the requirements of this section by obtaining formal
 32 university or college coursework in the courses delineated in this section.

33
 34 17-97-402. Additional training.

35 (a) The supervising neuropsychologist shall make the technician aware:

- 36 (1) Of the goals of neuropsychological examination and his or

1 her specific role in achieving those goals;

2 (2) Through additional training if necessary, of appropriate
 3 institutional emergency procedures to deal with various medical emergencies
 4 such as heart attack, respiratory arrest, seizures, and other relevant
 5 information; and

6 (3) In addition to medical emergencies, of recommended
 7 procedures for dealing with incompetent or adjudicated patients who attempt
 8 to leave the testing setting without authorization.

9 (b) The supervising neuropsychologist shall:

10 (1) Train the technicians to be sensitive to subtle or overt
 11 suicidal or homicidal threats or innuendoes made during testing.

12 (2) Because they may be exposed to aggressive or sexually
 13 inappropriate behavior on the part of patients, provide the technicians with
 14 specific instructions on how to handle such situations.

15 (c) Registered technicians shall complete a one-hour ethics course
 16 each year.

17 (2) The course shall be documented as part of the annual
 18 statement of supervision filed by the supervising psychologist.

19 (d)(1) Technicians shall receive training in:

20 (A) Ethical issues; and

21 (B) Methods of dealing with situations that arise in the
 22 context of assessment.

23 (2) Technicians shall receive specific instruction in regard to:

24 (A) The limits of his or her role; and

25 (B) Relationships with:

26 (i) The supervising neuropsychologist; and

27 (ii) Other technicians.

28 (3)(A) The supervising neuropsychologist shall provide explicit
 29 guidance regarding ethical issues that pertain to the activities of
 30 technicians in neuropsychological examination.

31 (B) These issues include:

32 (i) Protection of patient confidentiality;

33 (ii) Protection of the confidentiality of test
 34 information regarding patients;

35 (iii) Maintenance and protection of test security;

36 and

1 (iv) Constraints regarding dual relationships with
 2 patients or supervisors.

3 (e) Technicians should be explicitly instructed not to present
 4 themselves to patients in a manner that implies any independent professional
 5 prerogatives.

6 (f) The supervising neuropsychologist shall:

7 (1) Correct any misperceptions a technician may have about the
 8 potential for growth in the roles and responsibilities of technicians;

9 (2) Specifically state that test selection, interpretation, and
 10 communication of results are professional activities performed only by the
 11 supervising neuropsychologist; and

12 (3) Stipulate that these roles are not and never will be within
 13 the scope of employment of the technician.

14 (g)(1) The supervising neuropsychologist shall ensure that each
 15 technician employed by the neuropsychologist has an explicit understanding of
 16 the limited nature of the technician's role in neuropsychological
 17 examination.

18 (2) The supervising neuropsychologist shall clearly delineate
 19 the lines of authority between himself or herself and the technician.

20 (3)(A) Technicians shall be made aware at the time of their
 21 employment that their role in the overall process is important, but
 22 nonetheless is narrowly constrained.

23 (B) The role of the technician is strictly limited to the
 24 administration and scoring of certain test procedures that shall be selected,
 25 interpreted, and communicated by the supervising neuropsychologist.

26
 27 17-97-403. Registration.

28 (a)(1) Each licensed clinical neuropsychologist employing technicians
 29 shall:

30 (A) Register each technician with the Arkansas Psychology
 31 Board; and

32 (B) Annually submit a statement of supervision outlining
 33 the supervisory process used with each technician.

34 (2) Before employment, the technician shall:

35 (A) Be registered with the board; and

36 (B) Have completed a criminal background check as

1 described for licensed psychologists under § 17-97-312.

2
3 17-97-404. Disclosure.

4 Licensed neuropsychologists employing technicians shall provide to
5 clients written disclosure concerning the limited role of technicians to
6 clients, legal guardians of minors, and to schools or third-party payers if
7 legal or ethical guidelines require such disclosure.

8
9 17-97-405. Supervision of technicians -- Supervised experience.

10 (a)(1) An acceptable employment setting for technicians provides
11 ongoing neuropsychological services or scientific research in a well defined
12 and established program.

13 (2) Physical components shall be available including office
14 space, support staff, and equipment necessary for the technician to be
15 successful.

16 (3) The setting shall meet the broad and specialized needs of
17 the technician that are congruent with his or her job description.

18 (b)(1) The work setting shall provide the technician with a written
19 document specifying the administrative policies and the roles, goals, and
20 objectives of the technician's position.

21 (2) At the beginning of employment of a technician, the
22 supervising neuropsychologist shall develop, along with the technician, a
23 written individualized job description that is consistent with the
24 qualifications of the technician and the requirements of the setting.

25 (3) The supervising neuropsychologist shall determine the
26 adequacy of the technician's preparation for the tasks to be performed.

27 (4) The documents required under this subsection (b) shall serve
28 as the foundation for written evaluations of technicians.

29 (c) The setting shall include a licensed, board-approved clinical
30 neuropsychologist who is legally and ethically responsible for the oversight
31 of the integrity and quality of the services as well as other resources
32 necessary to meet the employment needs of the technician whose technical
33 assistance is restricted to the practice of neuropsychology and research.

34 (d)(1) The role of the technician shall be identified in such a way
35 that his or her supervised status is clearly identifiable to clients, third-
36 party payers, and other persons.

1 (2) Patients or clients shall be informed of the possibility of
 2 periodic meetings with the supervising neuropsychologists at the service
 3 provider's or the supervising neuropsychologist's request in accordance with
 4 guidelines published by the American Psychological Association and the
 5 Association of State and Provincial Psychology Boards.

6 (e)(1) Work assignments shall be commensurate with the skills of the
 7 technician.

8 (2) All procedures shall be planned in consultation with the
 9 supervising psychologist.

10 (f) Public announcement of services and fees and contacts with the lay
 11 or professional community shall be offered only by or in the name of the
 12 supervising neuropsychologist.

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 14
 15 17-97-406. Qualifications of Supervisors.

16 (a) Supervising neuropsychologists shall be:

17 (1) Licensed to practice psychology in Arkansas;

18 (2) Aware of and abide by the ethical principles and state
 19 statues pertaining to the practice of psychology in general and to
 20 supervision in particular; and

21 (3) Approved by the Arkansas Psychology Board to practice
 22 neuropsychology.

23 (b) Supervising neuropsychologists shall have:

24 (1) At least three (3) years of post-licensure experience; and

25 (2) Had training, experience, or both in supervision.

26 (c) The supervisor is ethically and legally responsible for all of the
 27 professional activities of the technician.

28 (d)(1) Supervising neuropsychologists shall have adequate training,
 29 knowledge, and skill to render competently any neuropsychological service
 30 which the employed technician undertakes.

31 (2)(A) Supervising neuropsychologists may not permit a
 32 technician to engage in any practice that the supervising neuropsychologist
 33 cannot perform competently him or herself.

34 (B) The supervising neuropsychologist shall interrupt or
 35 terminate the technician's activities whenever necessary to ensure adequate
 36 development of skills and the protection of the public.

1 (3)(A) Any written documents prepared by the technician shall
 2 include the credentials and signature of both the technician and the
 3 supervising neuropsychologist.

4 (B) The name and credentials of technicians employed in
 5 the testing procedures shall be included on written reports prepared by the
 6 neuropsychologist.

7 (e)(1) The supervising neuropsychologist or a qualified designee who
 8 meets the requirements of a supervisor, shall provide twenty-four hour
 9 availability to both the technician and the technician's clients for
 10 emergency consultation and intervention.

11 (f)(1) The supervising neuropsychologist shall have sufficient
 12 knowledge of all clients, including face-to-face contact when necessary, in
 13 order to plan effective delivery procedures.

14 (2) The supervising neuropsychologist shall provide for another
 15 qualified supervisor in case of any interruption of supervision due to such
 16 factors as the supervisor's illness, unavailability, or relocation.

17 (g)(1) Supervising neuropsychologists shall avoid entering into dual
 18 relationships with the technicians for whom they provide supervision.

19 (2) Supervising neuropsychologists may not exploit or engage in
 20 sexual relationships with the technicians they employ.

21 (3) Supervising neuropsychologists shall attempt to resolve any
 22 unforeseen interference that may be potentially harmful to the supervisory
 23 relationship with due regard for the best interests of both the client and
 24 the technician and after appropriate consultation.

25 (h)(1) No supervising neuropsychologist may supervise more than three
 26 (3) technicians during any one (1) employment period.

27 (2) For supervising neuropsychologists who employ part-time
 28 technicians, "three (3) technicians" means any combination of employees that
 29 total three (3) full time equivalents, but no more than eight (8) part-time
 30 technicians during any one (1) employment period.

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