

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

FILED
1991 AUG 12 PM 3:18
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: West Virginia Board of Examiners of Psychologists TITLE NUMBER: 17

RULE TYPE: LEGISLATIVE; CITE AUTHORITY 30-21-6(a)(3)

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

TITLE OF RULE BEING AMENDED: Qualifications for Licensure as a
Psychologists

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

DATE OF PUBLIC HEARING: SEPTEMBER 12, 1991 TIME: 10:00AM

LOCATION OF PUBLIC HEARING: CONFERENCE ROOM B

Bridgeport Holiday Inn

Bridgeport, WV

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Dr. Jeff Harlow, Chairperson

WVREP

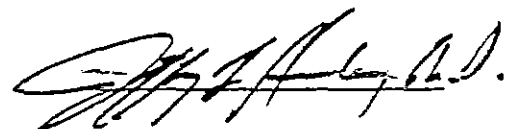
P.O. Box 3146

Charleston, WV 25331

The Department requests that persons wishing to make
comments at the hearing make an effort to submit written
comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



TITLE 17 - INTERPRETIVE RULES - PSYCHOLOGISTS

SERIES 3 - QUALIFICATIONS FOR LICENSURE AS A PSYCHOLOGIST

17-3-1. GENERAL. 1.1. Scope.-These interpretive rules define the qualifications of training, experience, supervision, professional ethics and responsibilities required for licensing as a psychologist. 1.2. Authority.-W. Va. Code 30-21-2(e)(1,2,3,4,5,6,7), 30-21-7, 30-21-7(a)(2,4), 30-21-1. 1.3. Filing Date.-June 7, 1985. 1.4. Effective Date. - June 7, 1985.

17-3-2. ADEQUACY OF COURSE STUDY. 2.1 A degree shall be deemed to be in psychology if the course of study was taken in a department of psychology, a department of educational psychology or a department of education and psychology, or any university department whose official designation contained the words "Psychology" or "Psychological" but not otherwise. 2.2. The term "Accredited" is interpreted to mean universities that meet standards such as the North Central Association of Schools and Colleges. In any case, the degree must come from a university whose academic standards are no lower than those of the State of West Virginia's two (2) graduate degree-granting institutions—West Virginia University and Marshall University. The Board reserves the right to investigate the credentials of a university in its attempt to evaluate an applicant's training. 2.3. When the degree is at the master's level (West Virginia Code, subdivision (3), subsection (a), section seven, article twenty-one, chapter thirty), the law clearly states that the applicant must hold a "Master's Degree in Psychology." It is expected that a minimum of twenty-four (24) semester hours of graduate credit, in courses clearly identified by title and course content as being psychological in nature, would have been required by a department in a university granting such a degree. Course study for the master's degree in psychology shall be deemed adequate if eighty percent of the required courses to earn the master's degree, excluding the practicum and master's thesis, are earned through on-campus classes of the degree granting university. 2.4. When a degree is at the doctoral level (West Virginia Code, subdivision (3), subsection (a), section seven, article twenty-one, chapter thirty), the law clearly specifies the Ph.D., or its equivalent. It is expected that, of the required course hours for the doctorate beyond the requirements for the master's degree shown on the applicant's transcripts, at least half are clearly identified by title and course content as being psychological in nature, and can be shown to have been taught by a psychologist. 2.5. The Board may interpret to be a psychology course a certain course, not labeled as psychology, but which in its opinion is psychological in content and has been taught by a psychologist. 2.6. It should be evident that applications based on an equivalent degree may require a longer period of time to process because of the need to obtain information such as that described in Subsections 2.4 and 2.5 of these rules. It is the responsibility of such applicants to prove that their degrees are equivalent to a Ph.D. degree in psychology and it is clear that the granting of equivalency status is not automatic. All equivalency applications shall be evaluated by the Board or its committee. 2.7. Graduates of foreign universities are excluded from the provisions of this regulation and the criteria for the evaluation of their formal education consists of documents and evidence tending to establish that their formal education is equivalent to a doctoral degree in psychology or educational psychology granted by a school approved by the Board. 2.8. For doctoral applications, course study shall be deemed adequate if eighty percent of the required courses to earn the doctoral

degree, excluding internship, practicum, master's thesis, and dissertation hours shall have been earned through on-campus classes of the degree granting university. 2.9. Adequacy of course study for a Ph.D. in Psychology is defined as including a predoctoral or post-doctoral internship. Thus, an applicant who has not had such an internship or its equivalent may be required to have an additional year of Board approved supervision. 2.10. An acceptable formal one year internship or its equivalent must meet all of the following criteria. 2.10.1 The internship was an organized training program, in contrast to supervised experience or on-the-job training, designed to provide the intern with a planned, programmed sequence of training experiences. The primary focus and purpose is assuring breadth and quality of training. 2.10.2 The internship agency had a clearly designated staff psychologist who was responsible for the integrity and quality of the training program and who was actively licensed/certified by the state board of examiners in psychology. 2.10.3 Internship supervision was provided by a staff member of the internship agency or by an affiliate of that agency who carried clinical responsibility for the cases being supervised. At least half of the internship supervision was provided by one or more psychologists. 2.10.4 The internship provided training in a range of assessment and treatment activities conducted directly with clients, agencies, or organizations seeking psychological services. 2.10.5 At least 25% of the trainee's time involved direct contact with clients, agencies, or organizations seeking psychological services (Minimum 375 hours). 2.10.6 The internship included a minimum of two hours per week (per 40 hour work week) of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with psychological services rendered directly by the intern. There must also have been at least two additional hours per week in learning activities such as: case conferences involving a case in which the intern was actively involved; seminars dealing with clinical issues; co-therapy with a staff person including discussion; group supervision; additional individual supervision. 2.10.7 The internship experience (minimum 2,000 hours) was completed within 24 months. The 24-month criteria may be waived by the Board under exceptional circumstances.

17-3-3. ADEQUACY OF EXPERIENCE. 3.1. Acceptable experience must have involved the "Practice of Psychology," as defined in section two (e), article twenty-one, chapter thirty, and must have been performed competently at a professional level in order to be considered satisfactory in scope and quality. Experience limited to essentially repetitious and routine tasks at the preprofessional level will not be accepted, e.g., administering and scoring structured tests, computing statistics by hand or machine or assisting an instructor in psychology courses. Satisfactory professional experience include tasks which depend upon the application of skills, concepts and principles made available during the applicant's formal professional education, e.g., administering and interpreting unstructured psychological tests; providing clients or patients assistance in solving their professional or personal problems; designing original research projects; analyzing and reporting research data; or teaching a psychology course. 3.2 It is expected that the work described in Section 3.1 of these rules would have been done under the supervision of a psychologist with training and experience equivalent to that required by this state for licensing and would have had particular competence in the skills and knowledge in which the applicant was engaged. It is further expected that such supervision would have been conducted according to standards at least equivalent to those described in Section 6 of this Series of rules and regulations.

3.3. The term "Year" shall mean twelve (12) average work months, including leaves for vacation with pay, during which the individual was engaged in employment on a full-time per week basis, except that in the case of academic employment the term "Year" shall mean the number of months normally associated with full-time employment in that institution. 3.3.1. In cases of full-time employment, the work schedule of the employing agency, clinic, institution or organization will be accepted as meeting the requirement. 3.3.2. In the case of part-time employment credit for such periods of employment shall be extended on a pro rata basis, in such a manner that the number of hours actually worked per week will be divided by forty (4), and the resulting fraction shall be applied to the number of months of employment reported to determine the number of months to be credited to this applicant. Example: Applicant employed from July 1, 1970 through October 31, 1971, on an average of twenty (20) hours per week, total period--sixteen (16) months at one-half time. Applicant is credited with eight (8) months experience.

3.4. The law specifies that when the degree held is a master's, five (5) years experience acceptable to the Board subsequent to receiving said degree will be required. When experience which meets all of the above requirements and which was obtained simultaneously to pursuing graduate work toward the doctorate is presented as part of the experience requirement, the following will serve as guidelines: During a period in which the candidate was enrolled for ten to thirteen (10-13) semester hours, up to twenty (20) hours per week experience could be credited; when enrolled for six to nine (6-9) semester hours, up to forty (40) hours per week work experience could be credited. 3.5. The law specifies that when the degree held is a Ph.D., one (1) year of experience acceptable to the Board subsequent to receiving said degree will be required. 3.6. If all requirements have been met for a degree and the only reason that the awarding of the degree has been delayed is that the University's scheduled time for conferring degrees is one (1) or more months later, and if the candidate has begun work which meets the standards described in Subsection 3.1 and 3.2 of these rules, the work experience can be counted from the time that all requirements for the degree were met. In such cases verification from the department chairman or program advisor that such a situation existed for the candidate will be requested. 3.7. Independent private practice shall not be considered an acceptable professional experience for purpose of the experience requirement. Independent is interpreted to mean private practice wherein the practitioner does not maintain regular consultative relationships in regard to the handling of his case load.

17-3-4. PROFESSIONAL ETHICS. The Board hereby adopts the Code of Ethics of the American Psychological Association as part of its rules, all provisions in said code to have effect as if they were specifically promulgated regulations of the Board.

17-3-5. RESPONSIBILITIES OF LICENSEES. 5.1. The holder of a license shall be responsible for familiarizing himself with the provisions of the law and the APA Code of Ethics and functioning within them. 5.2. In keeping with section eight, article twenty-one, chapter thirty, the holder shall conspicuously display the obtained license at his principal place of practice. 5.3. The holder shall be responsible for submitting a letter requesting renewal of his license together with the fee, at least one (1) month prior to the expiration date. 5.4. The holder shall be responsible for keeping the Board Secretary informed of any changes in names, address, place of employment, types of psychological activities engaged in, and/or any other changes pertinent to his licensure. 5.5. The holder shall be responsible for submitting information and reports as described in Section 6 of this Series of rules regarding persons for whom he is providing supervision.

17-3-6. STANDARDS FOR THE SUPERVISION OF PERSONS WORKING UNDER THE DIRECT AND REGULAR SUPERVISION OF LICENSEES. 6.1. Who needs supervision. 6.1.1. All individuals who provide psychological services and who are not either currently licensed or specifically exempted by law (West Virginia Code, subdivisions (1), (3) and (5), subsection (e), section two, article twenty-one, chapter thirty) should provide such services under the critical observation of a person who is competent to evaluate those services. Such individuals will fall into one (1) of three (3) categories; 6.1.1a. Individuals who are working for the purpose of gaining experience required for a license; 6.1.1b. Assistants or technicians with less than a master's degree in psychology who would not qualify for licensing; or 6.1.1c. Students who engage in activities as part of a course of study in an institution of higher learning. 6.1.2. It is recognized that persons hired by the state, county or local governments would be of the 6.1.1a or 6.1.1b descriptions as given above.

6.2. Who may supervise 6.2.1. A supervisor must be a holder of a current license or temporary permit issued by the West Virginia Board of Examiners of Psychologists. 6.2.2. The Board may revoke the privilege of supervising upon reasonable evidence of supervisor's incompetence; for example, during an investigation as to whether a license or temporary permit should be revoked; or failure to provide adequate supervision, or failure to provide prompt evaluation of supervisee's performance. 6.2.3. A licensee is expected to limit his supervision obligations to an extent which can be adequately managed.

6.3. Improper supervision prohibited; notification of Board. 6.3.1. No licensee shall enter into the direct and regular supervision of a person engaged in the practice of psychology unless he has satisfied himself that the conditions of such supervision meet the standards set forth in these requirements. 6.3.2. Licensees shall cease their supervision whenever persons supervised by them or firms or agencies employing such supervised individuals fail to comply with the standards set forth in these regulations, and upon discontinuing their supervision shall notify the Board in writing within ten (10) days of such discontinuation of supervision. Licensees shall also notify the Board in writing whenever they discontinue supervision for any other reason, notification to be made within ten (10) days of the discontinuation of such supervision.

6.4. Minimum standards of supervision. 6.4.1. For people described in Section 6.1.1a or these rules. 6.4.1a. Such persons must be supervised directly by a licensed psychologist. 6.4.1b. A minimum of one (1) hour of individual supervision for every twenty (20) hours of psychological activities engaged in shall be required. 6.4.1c. When the supervising psychologist is not a full-time employee of the same firm or agency as the supervisee, the supervision must occur at least twice in each calendar month. The licensed psychologist, moreover, shall be available to his supervisee for telephone consultation at all times during regular business hours. 6.4.1d. All psychological reports or other professional opinions rendered by persons engaging in psychological activities without a license shall be countersigned by the licensed psychologist acting as their supervisor.

6.4.2. For people described in Section 6.1.1b of these rules. 6.4.2a. Such persons may function directly under a 6.1.1a person if this activity is made part of the discussion in the latter's relationship with his supervisor. In other words, the licensed psychologist who is supervising the 6.1.1a person is still ultimately responsible for the quality of the activities of persons under him. 6.4.2b. In such cases the 6.1.1a person should be a full-time employee of the agency or firm employing the assistant or technician. 6.4.2c. The licensee has the responsibility to keep himself informed of all the psychological activities engaged in by the assistant or technician. 6.4.2d. The licensee is expected to use his/her best professional judgment in determining how much time is necessary for the 6.1.1a person to spend with the assistant or technician to assure himself of the quality of services being performed.

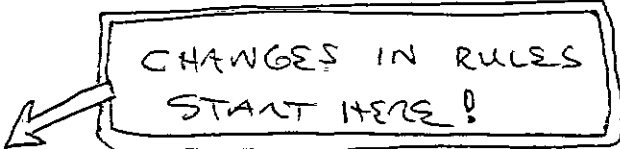
6.4.3 For people described in Section 6.1.1c of these rules. 6.4.3a. It is expected that such students would work directly under the instructor of the course. Instructors who function only within their regularly assigned college or university functions need not be licensed. Those who function outside those limitations, of course, must be licensed. 6.4.3b. In all cases, it is expected that ethical principles and procedures will be followed in dealing with the persons and materials which become part of such course.

6.5. Records of supervision required. 6.5.1. For people described in Section 6.1.1a of these rules. 6.5.1a. Supervisor shall be required to keep a diary listing the time and places of supervision separately for each supervisee as well as a brief notation of the subject matter of the supervision without identification of the characteristics of the client or clients who may have been discussed during such supervision. 6.5.1b. Firms or agencies employing psychologist(s) for the purpose of supervising persons practicing under these regulations shall be required to keep a diary listing the name of the supervised persons, names of licensed psychologists furnishing the supervision and the times when such supervision has occurred. 6.5.1c. A report of initiation of supervision shall be filed with the Board. In addition, reports from the supervisor are to be sent to the Board according to a format specified by the Board on a semiannual basis as follows: (1) September 1 to February 28 or 29 - report of activities due on April 1. (2) March 1 to August 31 - report of activities due on October 1. 6.5.1d. Whenever supervision is terminated, a final report is due within thirty (30) days of the termination date. The final report may also serve as one (1) of the semiannual reports.

6.5.2. For people described in Section 6.1.1b of these rules. 6.5.2a. On the semiannual schedule described above, the licensee will provide to the Board a list of assistants or technicians being supervised by him along with a brief description of the principal responsibility for each such assistant.

6.5.2b. Supervisory times and topics need not be logged in the detailed way as required for 6.1.1a people. Similarly, individual semiannual reports of supervision are not expected as for 6.1.1a people.

6.6. Supervision for licensure in another state that took place prior to the date the candidate files application for West Virginia licensure may be partially or entirely credited to the candidate's record if the supervision meets the standards of the West Virginia Board.



CHANGES IN RULES
START HERE!

SCHOOL PSYCHOLOGY LICENSURE LAW

INTERPRETIVE RULES AND REGULATIONS

17-3-7 RULES AND REGULATION FOR SCHOOL PSYCHOLOGY LICENSURE

7.1 SCHOOL BOARD PROPERTY: SCHOOL BOARD PROPERTY MAY INCLUDE BUILDINGS OR OFFICE SPACE WHICH IS OWNED, RENTED OR LEASED BY THE COUNTY SCHOOL BOARD. IT ALSO INCLUDES DONATED OFFICE SPACE OR BUILDINGS AND PRIVATE OR PAROCHIAL SCHOOL FACILITIES. THIS REGULATION DOES NOT PROHIBIT THE PROVISION OF SCHOOL PSYCHOLOGY SERVICES IN THE STUDENT'S HOME (I.E. HOMEBOUND SERVICES) WHEN THE SERVICES ARE PART OF THE SCHOOL PSYCHOLOGIST'S CONTRACT WITH THE SCHOOL BOARD.

7.2 SCHOOL PSYCHOLOGY REPRESENTATIVE MEMBERSHIP ON THE BOARD: IT IS REQUIRED BY 30-21-5a THAT "AT LEAST ONE MEMBER OF THE BOARD SHALL BE A LICENSED SCHOOL PSYCHOLOGIST". THIS DOES NOT EXCLUDE A LICENSED SCHOOL PSYCHOLOGIST (LEVEL II) FROM SERVING ON THE BOARD. FURTHERMORE, IT ALSO DOES NOT EXCLUDE A PROFESSIONAL PSYCHOLOGIST WHO IS A STANDARD PROVISION LICENSED PSYCHOLOGIST WHO ALSO POSSESSES A SCHOOL PSYCHOLOGIST LICENSE (LEVEL I OR LEVEL II).

7.3 WRITTEN EXAMINATION: THE NATIONAL ASSOCIATION OF SCHOOL PSYCHOLOGISTS (NASP) CERTIFICATION EXAMINATION (NATIONAL SCHOOL PSYCHOLOGIST EXAMINATION) SHALL BE ADOPTED AS THE EXAMINATION WHICH APPLICANTS FOR LEVEL I AND LEVEL II LICENSURE MUST PASS. THE MINIMUM PASSING SCORE APPLICANTS MUST ATTAIN SHALL BE EQUAL TO OR ABOVE ONE-HALF STANDARD DEVIATION BELOW THE MEAN (ROUNDED UP) FOR C.A.S. EXAMINEES OR THEIR EQUIVALENTS.

7.4 SUPERVISION

7.4A PROVIDERS OF SUPERVISION FOR LEVEL I PROVISION APPLICANTS: SUPERVISED EXPERIENCE FOR LEVEL I LICENSURE SHALL BE PROVIDED BY LEVEL I, LEVEL II, OR, WHEN NECESSARY, STANDARD PROVISION LICENSEES. STANDARD PROVISION LICENSEES WILL ONLY BE APPROVED TO BE SUPERVISORS UPON SATISFACTORY DOCUMENTATION OF SCHOOL PSYCHOLOGY EXPERTISE.

7.4B PROVIDERS OF SUPERVISION FOR LEVEL II PROVISION APPLICANTS: SUPERVISED EXPERIENCE FOR LEVEL II LICENSURE SHALL BE PROVIDED BY LEVEL II OR, WHEN NECESSARY, STANDARD PROVISION LICENSEES. STANDARD PROVISION LICENSEES WILL ONLY BE APPROVED TO BE SUPERVISORS UPON SATISFACTORY DOCUMENTATION OF SCHOOL PSYCHOLOGY EXPERTISE.

7.4C GENERAL REQUIREMENTS OF SUPERVISION FOR LEVEL I AND LEVEL II APPLICANTS: "SUPERVISED EXPERIENCE" NOTED IN 30-21-7b(2) AND "BOARD APPROVED SUPERVISION" NOTED IN 30-21-7c(2) SHALL CONSIST OF A MINIMUM OF ONE (1) HOUR OF INDIVIDUAL SUPERVISION FOR EVERY TWENTY (20) HOURS OF SCHOOL PSYCHOLOGY SERVICES PROVIDED BY THE APPLICANT. WHEN THE SUPERVISOR IS NOT LOCATED AT THE SAME WORK SITE, THE SUPERVISOR AND SUPERVISEE MUST MEET TOGETHER FOR A SUPERVISION SESSION. SUPERVISORS SHALL BE AVAILABLE TO THEIR SUPERVISEES FOR TELEPHONE CONSULTATION DURING THE WORK DAY. IF THE SUPERVISEE IS A CONTRACTOR WITH A SCHOOL BOARD, THE REPORTS MUST BE CO-SIGNED BY THE SUPERVISOR. IF THE SUPERVISEE IS A FULL-TIME EMPLOYEE, THEN THE REPORTS MAY BE LOGGED IN THE SUPERVISION RECORD AND NEED NOT BE CO-SIGNED, HOWEVER, ALL WORK MUST BE REVIEWED BY THE SUPERVISOR.

7.4D SPECIFIC SUPERVISION REQUIREMENTS FOR LEVEL I SUPERVISION AS DESCRIBED IN 30-21-7b: SUPERVISION DURING THE LEVEL I PROCESS SHALL INCLUDE ALL ASPECTS OF THE APPLICANT'S PROFESSIONAL PRACTICE. THE ASPECTS INCLUDE, BUT ARE NOT LIMITED TO: EVALUATIONS, CONSULTATION, ETHICS, RECORD KEEPING, AND PROFESSIONAL DEVELOPMENT. IT IS THE APPLICANT'S RESPONSIBILITY TO MAINTAIN ALL RECORD FORMS AND SUBMIT REPORTING FORMS TO THE BOARD. THE DURATION OF THE SUPERVISION SHALL BE THIRTY (30) MONTHS.

7.4E SPECIFIC SUPERVISION REQUIREMENTS FOR LEVEL II SUPERVISION AS DESCRIBED IN 30-21-7c: SUPERVISION DURING THE LEVEL II PROCESS SHALL INCLUDE ALL ASPECTS OF THE APPLICANT'S PROFESSIONAL PRACTICE AS DESCRIBED IN 7.4D ABOVE. IN ADDITION TO THE ABOVE, THE APPLICANT SHALL RECEIVE SUPERVISION IN THE PROVISION OF THE INDEPENDENT (PRIVATE) PROFESSIONAL SERVICES. DURING THE TWENTY (20) ADDITIONAL SUPERVISION MONTHS REQUIRED FOR THE LEVEL II LICENSE, THE SUPERVISEE MUST RECEIVE SUPERVISION EXPERIENCE WHICH PROVIDES COMPETENCY IN THE FOLLOWING: RECORD KEEPING, EMERGENCY PSYCHOLOGY, DUTY ISSUES, LIABILITY ISSUES, ABANDONMENT CONCERNS, CONFIDENTIALITY CONCERNS, COURT CONCERNS, BUSINESS ISSUES, SUPERVISION OF OTHER LICENSEES AND PROFESSIONAL PRACTICE ETHICS. THE SUPERVISEE MAY ACQUIRE THESE COMPETENCIES EITHER THROUGH ACTUAL PRIVATE PRACTICE EXPERIENCE OR THROUGH SUPERVISION PREPARATION. - IT IS STRONGLY SUGGESTED BUT NOT REQUIRED, THAT THE APPLICANT RECEIVE ON THE JOB EXPERIENCE IN A PRIVATE PRACTICE SETTING DURING THE SUPERVISION EXPERIENCE. IF THE APPLICANT WORKS IN A PRIVATE PRACTICE SETTING, ALL CREATED WORK MUST BE CO-SIGNED BY THE SUPERVISOR. IT IS RESPONSIBILITY OF THE SUPERVISEE AND THE SUPERVISOR TO ADEQUATELY PREPARE THE APPLICANT FOR LEVEL II PRACTICE.

7.4F SUPERVISION OF DOCTORAL CANDIDATES: THE REQUIRED SUPERVISION FOR DOCTORAL CANDIDATES SHALL INCLUDE THE ACTIVITIES AS DESCRIBED IN 7.4D AND 7.4E ABOVE. THE AMOUNT OF TIME REQUIRED FOR THE DOCTORAL APPLICANT SHALL BE ONE YEAR IF AN INTERNSHIP WAS PERFORMED OR TWO YEARS IF AN INTERNSHIP WAS NOT PERFORMED.

7.4G ALL APPLICANTS SHALL SUBMIT SUPERVISION REPORT FORMS ON A QUARTERLY BASIS.

7.5 GRANDPARENTING

7.5A GRANDPARENTING OF CERTIFIED SCHOOL PSYCHOLOGISTS AT LEVEL I: ALL CERTIFIED SCHOOL PSYCHOLOGISTS WHO HAVE BEEN PRACTICING SCHOOL PSYCHOLOGY FOR A PERIOD EQUALLING THREE (3) ACADEMIC YEARS AND WHO POSSESS A CERTIFICATE OF ADVANCE STUDY OR ITS EQUIVALENT, SHALL BE ISSUED A LEVEL I LICENSE UPON PASSING AN ORAL EXAMINATION AS REQUIRED BY 30-21-7d.

7.5B GRANDPARENTING OF STANDARD PROVISION LICENSED PSYCHOLOGISTS AT LEVEL I: STANDARD PROVISION LICENSED PSYCHOLOGISTS MAY APPLY FOR LICENSURE AT LEVEL I IF THEY HAVE BEEN APPROVED BY THE STATE DEPARTMENT OF EDUCATION TO PROVIDE SCHOOL PSYCHOLOGY SERVICES TO THE SCHOOLS. LEVEL I LICENSURE IS RECOMMENDED FOR THESE INDIVIDUALS IF THEY PERFORM SERVICES TO THE SCHOOLS BUT DO NOT REFER TO THEMSELVES AS "SCHOOL PSYCHOLOGISTS". SCHOOL PSYCHOLOGICAL SERVICES PROVIDED BY THESE INDIVIDUALS SHALL BE LIMITED BY THEIR AREAS OF DOCUMENTED COMPETENCE AND EXPERIENCE, THE ADEQUACY OF WHICH SHALL BE DETERMINED BY THE BOARD.

7.5C GRANDPARENTING OF CERTIFIED SCHOOL PSYCHOLOGISTS AT LEVEL II: AS REQUIRED BY 30-21-7d(2), NO INDIVIDUAL SEEKING ELIGIBILITY FOR LEVEL II LICENSURE SHALL BE GRANDPARENTED WITHOUT FIRST HAVING MET THE REQUIREMENTS OF 30-21-7b AND COMPLETE AN EQUIVALENCY OF TWO YEARS OF ADDITIONAL SUPERVISED EXPERIENCE. THIS EXPERIENCE IS THE EXPERIENCE DESCRIBED IN 7.4C DESCRIBED ABOVE.

7.5D GRANDPARENTING OF STANDARD PROVISION LICENSED PSYCHOLOGISTS WHO PRACTICE AS SCHOOL PSYCHOLOGISTS:

STANDARD PROVISION LICENSED PSYCHOLOGISTS WHO ARE CERTIFIED SCHOOL PSYCHOLOGISTS ARE NOT "SEEKING ELIGIBILITY" AS INDEPENDENT PRACTITIONERS AS DESCRIBED IN 30-21-7d(2). THESE INDIVIDUALS ALREADY POSSESS ELIGIBILITY FOR INDEPENDENT PRACTICE BY VIRTUE OF THEIR STANDARD LICENSE THESE INDIVIDUALS WILL BE GRANTED A LEVEL II LICENSE WITHOUT EXAMINATION

STANDARD PROVISION LICENSED PSYCHOLOGISTS WHO ARE NOT CERTIFIED SCHOOL PSYCHOLOGISTS BUT WHO PRACTICE AS SCHOOL PSYCHOLOGISTS IN A PRIVATE PRACTICE SETTING ARE NOT "SEEKING ELIGIBILITY" AS INDEPENDENT PRACTITIONERS AS DESCRIBED IN 30-21-7d(2). THESE INDIVIDUALS ALREADY POSSESS ELIGIBILITY FOR INDEPENDENT PRACTICE BY VIRTUE OF THEIR STANDARD LICENSE. UPON SATISFACTORY DOCUMENTATION OF TRAINING AND EXPERIENCE, THESE INDIVIDUALS WILL BE AWARDED A LEVEL II LICENSE WITHOUT EXAMINATION

7.6 SCHOOL PSYCHOLOGISTS EXEMPTION: AS DESCRIBED IN 30-21-2g(3), A CERTIFIED SCHOOL PSYCHOLOGIST WHO IS EMPLOYED AS DESCRIBED IN 30-21-2k, NEED NOT BE LICENSED AS A LEVEL I OR LEVEL II. HOWEVER, SUCH INDIVIDUALS SHALL NOT REFER TO THEMSELVES AS "LICENSED" NOR MAY THEY OFFER SERVICES AS A CONTRACTEE TO ANY OTHER COUNTY BOARD NOR SHALL THEY OFFER PRIVATE PSYCHOLOGICAL SERVICES.

7.7 CONTINUING EDUCATION REQUIREMENTS: STANDARD PROVISION LICENSEES WHO ARE GRANDPARENTED BY 7.5 AS DESCRIBED ABOVE, SHALL NEED ONLY TO MAINTAIN THEIR STANDARD LICENSE RENEWAL REQUIREMENTS IN ORDER TO MAINTAIN THEIR LEVEL I OR LEVEL II LICENSE.

7.8 EDUCATIONAL ACCOMPLISHMENTS: IT IS ACKNOWLEDGED THAT CERTIFICATE OF ADVANCED STUDY APPLICANTS HAVE EARNED AN ADDITIONAL TWENTY-FOUR GRADUATE COURSE WORK CREDITS, INCLUDING AN INTERNSHIP, BEYOND A MASTER'S DEGREE.

PTER.

er: limitations.

ite circuit court
n Human Rela-
Realco, Inc., 330

Procedures Act.
of the Adminis-
require that all
ed by any state
ne legislature for
ons of legislative
e rules and regu-
l. West Virginia
714 F.2d 308 (4th

Center, Inc. v.
(W. Va. 1985).

of purpose.

nd the admin-
administrative
olicy which is
ation and col-
acceptable and
hat the delega-
of government
h other depart-
ecause of their
viewed by the
f powers but in
nd regulations.
s to fix by law
subject only to
aking authority
ffices and agen-
e legislative re-
and with estab-
executive rule-

In that light chapter twenty-nine-a [§ 29A-1-1 et seq.] of this code establishes, with enumerated exceptions, procedures for rule making, declaratory rulings by agencies and the conduct of contested administrative cases, together with a plan for the systematic preparation, public consideration, orderly promulgation, preservation and public availability of the body of law, policy and administrative decisions within the purview of this chapter. (1982, c. 121.)

Textbooks. — Administrative Law in West Virginia (Neely), §§ 1.02, 2.03, 3.02, 3.04, 3.05, 3.07, 4.02, 4.04, 4.05, 4.07, 4.08, 4.17, 4.36, 5.02 to 5.05, 5.26, 5.44.

W. Va. Law Review. — For article, "Rights and Responsibilities in Administrative Rule Making in West Virginia," see 79 W. Va. L. Rev. 513 (1977).

Survey of Recent Developments in West Virginia Law: Judicial Review of Department of

Welfare Decisions, 85 W. Va. L. Rev. 415 (1983).

Policies. — A fee schedule as set by the civil service commission is not such rule as is contemplated by the provisions of the Administrative Procedures Act. Conner v. Civil Serv. Comm'n, 331 S.E.2d 858 (W. Va. 1985).

Stated in Serian v. State, 297 S.E.2d 389 (W. Va. 1982).

§ 29A-1-2. Definitions of terms used in this chapter.

For the purposes of this chapter:

(a) "Agency" means any state board, commission, department, office or officer authorized by law to make rules or adjudicate contested cases, except those in the legislative or judicial branches;

(b) "Contested case" means a proceeding before an agency in which the legal rights, duties, interests or privileges of specific parties are required by law or constitutional right to be determined after an agency hearing, but does not include cases in which an agency issues a license, permit or certificate after an examination to test the knowledge or ability of the applicant where the controversy concerns whether the examination was fair or whether the applicant passed the examination and does not include rule making;

(c) "Interpretive rule" means every rule, as defined in subsection (i) of this section, adopted by an agency independently of any delegation of legislative power which is intended by the agency to provide information or guidance to the public regarding the agency's interpretations, policy or opinions upon the law enforced or administered by it and which is not intended by the agency to be determinative of any issue affecting private rights, privileges or interests. An interpretive rule may not be relied upon to impose a civil or criminal sanction nor to regulate private conduct or the exercise of private rights or privileges nor to confer any right or privilege provided by law and is not admissible in any administrative or judicial proceeding for such purpose, except where the interpretive rule established the conditions for the exercise of discretionary power as herein provided. However, an interpretive rule is admissible for the purpose of showing that the prior conduct of a person was based on good faith reliance on such rule. The admission of such rule in no way affects any legislative or judicial determination regarding the prospective effect of such rule. Where any provision of this code lawfully commits any decision or determination of fact or judgment to the sole discretion of any

agency or any executive officer or employee, the conditions for the exercise of that discretion, to the extent that such conditions are not prescribed by statute or by legislative rule, may be established by an interpretive rule and such rule is admissible in any administrative or judicial proceeding to prove such conditions.

(d) "Legislative rule" means every rule, as defined in subsection (i) of this section, proposed or promulgated by an agency pursuant to this chapter. Legislative rule includes every rule which, when promulgated after or pursuant to authorization of the legislature, has (1) the force of law, or (2) supplies a basis for the imposition of civil or criminal liability, or (3) grants or denies a specific benefit. Every rule which, when effective, is determinative on any issue affecting private rights, privileges or interests is a legislative rule. Unless lawfully promulgated as an emergency rule, a legislative rule is only a proposal by the agency and has no legal force or effect until promulgated by specific authorization of the legislature. Except where otherwise specifically provided in this code, legislative rule does not include (A) findings or determinations of fact made or reported by an agency, including any such findings and determinations as are required to be made by any agency as a condition precedent to proposal of a rule to the legislature; (B) declaratory rulings issued by an agency pursuant to the provisions of section one [§ 29A-4-1], article four of this chapter; (C) orders, as defined in subdivision (e) of this section; or (D) executive orders or proclamations by the governor issued solely in the exercise of executive power, including executive orders issued in the event of a public disaster or emergency;

(e) "Order" means the whole or any part of the final disposition (whether affirmative, negative, injunctive or declaratory in form) by any agency of any matter other than rule making;

(f) "Person" includes individuals, partnerships, corporations, associations or public or private organizations of any character;

(g) "Procedural rule" means every rule, as defined in subsection (i) of this section, which fixes rules of procedure, practice or evidence for dealings with or proceedings before an agency, including forms prescribed by the agency;

(h) "Proposed rule" is a legislative rule, interpretive rule, or a procedural rule which has not become effective pursuant to the provisions of this chapter or law authorizing its promulgation;

(i) "Rule" includes every regulation, standard or statement of policy or interpretation of general application and future effect, including the amendment or repeal thereof, affecting private rights, privileges or interests, or the procedures available to the public, adopted by an agency to implement, extend, apply, interpret or make specific the law enforced or administered by it or to govern its organization or procedure, but does not include regulations relating solely to the internal management of the agency, nor regulations of which notice is customarily given to the public by markers or signs, nor mere instructions. Every rule shall be classified as "legislative rule," "interpretive rule" or "procedural rule," all as defined in this section, and shall be effective only as provided in this chapter;

NOTE: FOR CLARIFICATION, PLEASE NOTE THAT THIS LETTER HAS
BEEN EDITED. REVISIONS DATED 7/30/91.

304 Circle Street
Beckley, West Virginia 25801
July 29, 1991

Jeff Harlow
P.O. Box 3146
Charleston, WV 25331

Dear Jeff:

I am writing in response to the "Proposed" Interpretative Rules for the School Psychology Licensure Law. At this point, all I can say is that I have never encountered a document so blatantly biased against a specific professional group. It appears that when our association turned a deaf ear to the WV Department of Education, as well as individual members, regarding the adversary nature of the Board of Examiners, we were foolish. I distinctly remember conversations regarding a "pulling together of the two associations," "the development of collegial relationships," etc. I feel that if the "Proposed" Interpretative Rules for School Psychologists go through as written, then we have been discriminated against. We bargained with you in good faith. I am very disappointed with the "Proposed" Interpretative Rules.

I am familiar with the existing interpretative rules for the psychology licensure bill. The requirements for school psychology, in several cases, go over and beyond what is required for the general licensure. IT IS MY FEELING THAT THE "PROPOSED" INTERPRETATIVE RULES MUST STAY IN LINE WITH THE EXISTING INTERPRETATIVE RULES. When the Board of Examiners take such a restrictive role toward school psychologists, and does not maintain the same written standard for other psychologists, there is definitely a problem.

I was fearful that this would happen--that is, something printed would develop that would be controversial. That is why we asked to have some input in the development of the interpretative rules. I even suggested having school psychologists from the National School Psychologist Certification Board meet with the Board of Examiners for technical assistance.

It is also a concern of mine that this letter will not be addressed seriously, since that happened last year when the Board Examiners pursued the contract issue in spite of

protests from school psychologists and clinical psychologists at your public hearing. (By the way, that interpretative rule has not been pulled, as you stated. Ken Heckler's office has requested the interpretative rule be pulled in writing from you, since Ted Glance called and put a stop to your request to rescind it). When Beth Ann and I met with you during the legislative session, we informed you of this. The Secretary of State's office wanted the request in written form, since there were conflicting messages.

Given the above concerns, I will go further to say to you that I have supported you and the Board of Examiners in many instances. I do feel that the oral examination is a good idea, since it gives the Board of Examiners an opportunity to meet with each school psychologist. I have stated that if a school psychologist cannot pass an oral examination on competency and ethics, then some intervention is necessary. I believe that the Board of Examiners will be pleasantly surprised at the quality of school psychologists.

You must know by now, however, that many feel that no oral examination was necessary. This feeling is due to the fact that in the original licensure law (or for any other professional group) during the grandparenting period only application for licensure was required.

I also feel that you bargained with us in good faith, and I do not feel you personally are responsible for this document. It appears that someone that was not active during the legislative process has written this. Now it is difficult to say that there are problems in the document without causing hard feelings. For this reason a collaborative effort on the development of the document was necessary. The worst case scenario has developed.

Given this, please consider the following recommendations to the "Proposed" Interpretative Rules for School Psychologists:

1. 7.3 NASP EXAMINATION.

- a. Since clinical psychologists must meet a score of 1/2 standard deviation below the mean on the APA examination, then this should be consistent with the NASP examination if you feel you must pursue this avenue.
- b. Since the interpretative rules for clinical psychologists do not have different cutoff scores for different degree level, then the NASP examination should not.
- c. The sensible and logical approach would be to respect the cutoff score established during the normative process, as NASP standards provide.

"Proposed" Interpretative Rules for School Psychologists

The Board of Examiners should review the standardization sample for the NASP examination before they are led to believe that the normative group was school psychologists with master's degrees. You may find your assumption faulty.

- d. Therefore, I would like to see this section say:

The National Association of School Psychologists (NASP) examination shall be adopted as the nationally standardized exam which applicants for licensure as school psychologists must pass. The minimum score for applicants shall be equal to or above the cutoff score established for the examination by the test publisher in consideration of national performance of the standardization sample of the examination.

2. 7.4 Required Supervision For Level-1 Standard-Provision Applicants: Leave out the word "truly." The inclusion of the word "truly" implies that there may be some doubt regarding the applicant's willingness to obtain the services of a qualified supervising psychologist. This terminology is not in the existing interpretive rules--it has no place in the "Proposed" interpretative rules.

3. 7.5 Supervision Requirements for Level-2 Standard Provision Applicants:

- a. Since you do not specify that clinical psychologists must have at least ten hours of professional private practice activity per week during their work week to become licensed, then it is discriminatory for you to require school psychologists to do so.

For example, if a psychologist working for community mental health is supervised for licensure and becomes eligible to do private practice work, he/she is not required to do part of the supervised work in an independent setting. In reality, they are supervised during the work week on activities incurred during the work week.

While the intent may be commendable, it is still requiring a school psychologist who is most likely working for school system to work an additional 10 hours outside the work setting per week (a 50 hour work week for two academic years). Since I personally know of no

"Proposed" Interpretative Rules for School Psychologists

certified school psychologist who is also licensed that was required to do this during their supervision, I have some problems with this. Again, it is not consistent with the existing interpretative rules for clinical psychologists.

As long as this is not required of clinical psychologists, then it should not be required of school psychologists.

4. 7.7 Supervision Requirements for Level-2 Grandparenting Applicants:

- a. This is no grandparenting clause. It is ludicrous to expect a psychologist to be required to adhere to the same supervision requirements mandated under the licensure law for grandparenting, especially when many school psychologists have well more than five years experience. REMEMBER, WHEN THE ORIGINAL BILL WAS WRITTEN, TO BE GRANDPARENTED ALL AN APPLICANT HAD TO DO WAS APPLY--NO ORAL EXAMINATION, NO FURTHER SUPERVISION. This must be changed.

I would recommend the following:

For grandparenting at the Level 2, an applicant must have at least five years of experience.

---After all, this is still much more restrictive than the original law for clinical psychologists which only required an application to the Board of Examiners.

5. 7.9 Grandparenting of Licensed Psychologists at Level -I:

Left out of this section is the fact that the licensed psychologist must have been an "approved licensed psychologist" of by the West Virginia Department of Education on the date this bill was approved. A list of those approved licensed psychologists is available from the state department of education. The bill did not include every psychologist who has done work in a school system. It does not include psychologists who were approved in previous years but not this past academic year. A letter, from the county superintendent, must be on file at the state department for each year and for each county in which a psychologist is working and seeking approval.

This will be monitored.

It is my suggestion, then:

Licensed psychologists may apply for grandparenting at Level-1 if they have been approved by the State Department of Education on the date of passage of the bill (June, 1991). Included in the application process will be:

- a. an oral examination, and
- b. documentation from the WV Department of Education that the licensed psychologist was approved on the date the bill was passed.

The "Proposed" Interpretative Rules for School Psychologists did not include an oral examination for licensed psychologists who were grandparented at Level-1 as school psychologists--but you did require an oral for school psychologists. This is not logical. A licensed psychologist who is not specifically trained in school psychology, must have an oral examination. Heck, you are requiring school psychologists who have graduated from approved university programs to take an oral examination. Be consistent and fair.

6. 7-10 Grandparenting of Licensed Psychologists Who Are Also School Psychologists at Level-2-- You have included a whole group of "licensed psychologists who have practiced as school psychologist under their standard license." There was no provision for these individuals to become licensed at the Level 2 level--only level 1. Unless, of course, you are referring to a psychologist trained in child psychology.

7-10 should read:

Standard provision licensed psychologists who are also certified school psychologist shall be grandparented at Level-2 without an oral examination, provided that such applicants submit required documentation of training and experience in school settings and such training and experience is deemed sufficient by the Board. School psychological services provided by such individuals

"Proposed" Interpretative Rules for School Psychologists

shall be limited by their areas of demonstrated competency and experience, the adequacy of which shall be determined by the Board.

7. Educational Accomplishments:

a. The CAS is a degree awarded during graduation ceremonies at a college or university. It has been authorized by the Board of Regents to provide this level of degree status. During graduation ceremonies, they march after the Master's level degree recipients and before the doctoral level degree recipients.

b. This should read:

It is acknowledged that the CAS (or its equivalent, e.g., Ed.S.) is a post-master's degree earned in specialization of school psychology. It is the entry level degree requirement (not master's degree level) as required by NASP standards and the WV Department of Education for permanent certification for the practice of school psychology.

8. 17-1-2 Summary of Fees

a. It appears that the fees have been at least doubled, and at times tripled, in the "Proposed" Interpretative Rules. The timing is poor. It appears that to become licensed as a school psychologist, it will take two to three times as much as it would have become licensed as a clinical psychologist.

9. I understand that the bill is being interpreted to mean that school psychologists with a master's degree that is equivalent to 60+ hours or an Ed.S. are being excluded from the grandparenting process. The bill states repeatedly that the educational requirement is a CAS or its equivalent.

Since you know the above to be true, and since there is already controversy regarding this, then I recommend that you add another section stating:

The educational requirements of a Certificate of Advance Study (CAS) in school psychology, shall be synonymous with those psychologists who have equivalent education in school psychology programs or advanced degrees in school

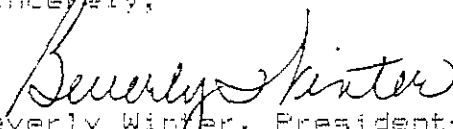
psychology.

It is my request that you suspend pursuing the existing "Proposed" Interpretative Rules for School Psychologists. I am asking for a meeting of the Board of Examiners and certain members of the executive board of the West Virginia Association of School Psychologists in order to resolve this matter. This "Proposed" Interpretative Rules for School Psychologists is a volatile document. I strongly urge that you call a meeting as soon as possible.

This whole idea of being a licensed school psychologist as being something less than a licensed psychologist is not satisfactory. It is analogous to a pediatrician as opposed to a general practitioner. We were glad to define--not limit--our area of expertise. I'm growing weary of licensed psychologists stating that they feel "sorry" for us. That is, they can do whatever they want but we cannot. Isn't the point of licensure to stay within one's area of expertise? Isn't that what this law developed?

Please respond to Beth Ann Young, WVSPA President, regarding a time when we can get together as a group and iron out our differences. In this way, we can be insured of a document that will be supported throughout the years. You may contact her by telephone at 842-7457.

Sincerely,



Beverly Winter, President-Elect
WV School Psychologists Association

cc: Board of Examiners in Psychology
WV Department of Education
Beth Ann Young, WVSPA President