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REGULATION OF PROFESSIONS AND
OCCUPATIONS

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CHAPTER 490 PSYCHOLOGICAL SERVICES

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490.001 Short title.—This chapter may be cited as the “Psychological Services Act.”

History.—ss. 1, 3, ch. 81-235; ss. 1, 3, ch. 83-265; ss. 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 91-429.

490.002 Intent.—The Legislature finds that as society becomes increasingly complex, emotional survival is equal in importance to physical survival. Therefore, in order to preserve the health, safety, and welfare of the public, the Legislature must provide privileged communication for members of the public or those acting on their behalf to encourage needed or desired psychological services to be sought out. The Legislature further finds that, since such psychological services assist the public primarily with emotional survival, which in turn affects physical and psychophysical survival, the practice of psychology and school psychology by unqualified persons presents a danger to public health, safety, and welfare.

History.—ss. 1, 3, ch. 81-235; ss. 1, 3, ch. 83-265; ss. 1, 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 12, 13, ch. 89-70; s. 10, ch.

90-192; s. 4, ch. 91-429.

490.003 Definitions.—As used in this chapter:

- (1) “Board” means the Board of Psychology.
- (2) “Department” means the Department of Health.
- (3)(a) Prior to July 1, 1999, “doctoral-level psychological education” and “doctoral degree in psychology” mean a Psy.D., an Ed.D. in psychology, or a Ph.D. in psychology from:
 1. An educational institution which, at the time the applicant was enrolled and graduated, had institutional accreditation from an agency recognized and approved by the United States Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada; and
 2. A psychology program within that educational institution which, at the time the applicant was enrolled and graduated, had programmatic accreditation from an accrediting agency recognized and approved by the United States Department of Education or was comparable to such programs.
- (b) Effective July 1, 1999, “doctoral-level psychological education” and “doctoral degree in psychology” mean a Psy.D., an Ed.D. in psychology, or a Ph.D. in psychology from:
 1. An educational institution which, at the time the applicant was enrolled and graduated, had institutional accreditation from an agency recognized and approved by the United States Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada; and
 2. A psychology program within that educational institution which, at the time the applicant was enrolled and graduated, had programmatic accreditation from an agency recognized and approved by the United States Department of Education.
- (4) “Practice of psychology” means the observations, description, evaluation, interpretation, and modification of human behavior, by the use of scientific and applied psychological principles, methods, and procedures, for the purpose of describing, preventing, alleviating, or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal behavioral health and mental or psychological health. The ethical practice of psychology includes, but is not limited to, psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning, including evaluation of mental competency to manage one’s affairs and to participate in legal proceedings; counseling, psychoanalysis, all forms of psychotherapy, sex therapy, hypnosis, biofeedback, and behavioral analysis and therapy; psychoeducational evaluation, therapy, remediation, and consultation; and use of psychological methods to diagnose and treat mental, nervous, psychological, marital, or emotional disorders, illness, or disability, alcoholism and substance abuse, and disorders of habit or conduct, as well as the psychological aspects of physical illness, accident, injury, or disability, including neuropsychological evaluation, diagnosis, prognosis, etiology, and treatment.
 - (a) Psychological services may be rendered to individuals, couples, families, groups, and the public without regard to place of service.
 - (b) The use of specific modalities within the practice of psychology is restricted to psychologists appropriately trained in the use of such modalities.
 - (c) The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is requested or received for services rendered.
- (5) “Practice of school psychology” means the rendering or offering to render to an individual, a group, an organization, a government agency, or the public any of the following services:
 - (a) Assessment, which includes psychoeducational, developmental, and vocational assessment; evaluation and interpretation of intelligence, aptitudes, interests, academic achievement, adjustment, and motivations, or any other attributes, in individuals or groups, that relate to learning, educational, or adjustment needs.
 - (b) Counseling, which includes short-term situation-oriented professional interaction with children, parents, or other adults for amelioration or prevention of learning and adjustment problems. Counseling services relative

to the practice of school psychology include verbal interaction, interviewing, behavior techniques, developmental and vocational intervention, environmental management, and group processes.

(c) Consultation, which includes psychoeducational, developmental, and vocational assistance or direct educational services to schools, agencies, organizations, families, or individuals related to learning problems and adjustments to those problems.

(d) Development of programs, which includes designing, implementing, or evaluating educationally and psychologically sound learning environments; acting as a catalyst for teacher involvement in adaptations and innovations; and facilitating the psychoeducational development of individual families or groups.

(6) "Provisional psychologist licensee" means a person provisionally licensed under this chapter to provide psychological services under supervision.

(7) "Psychologist" means a person licensed pursuant to s. 490.005(1), s. 490.006, or the provision identified as s. 490.013(2) in s. 1, chapter 81-235, Laws of Florida.

(8) "School psychologist" means a person licensed pursuant to s. 490.005(2), s. 490.006, or the provision identified as s. 490.013(1) in s. 1, chapter 81-235, Laws of Florida.

History.—ss. 1, 3, ch. 81-235; ss. 1, 3, ch. 83-265; ss. 2, 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 2, 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 91-429; s. 190, ch. 94-218; s. 3, ch. 95-279; s. 2, ch. 97-198; s. 194, ch. 97-264.

490.004 Board of Psychology.—

(1) There is created within the department the Board of Psychology, composed of seven members appointed by the Governor and confirmed by the Senate.

(2) Five members of the board must be psychologists licensed pursuant to this chapter in good standing in this state. The remaining two members must be citizens of the state who are not and have never been licensed psychologists and who are in no way connected with the practice of psychology. At least one member of the board must be 60 years of age or older.

(3) Members shall be appointed for terms of 4 years and shall serve until their successors are appointed.

(4) The board shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter.

(5) All applicable provisions of chapter 456 relating to activities of regulatory boards shall apply to the board.

(6) The board shall maintain its official headquarters in the City of Tallahassee.

History.—ss. 1, 3, ch. 81-235; ss. 1, 3, ch. 83-265; s. 25, ch. 87-172; ss. 3, 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 91-429; s. 191, ch. 94-218; s. 4, ch. 95-279; s. 148, ch. 98-166; s. 162, ch. 98-200; s. 207, ch. 2000-160.

490.005 Licensure by examination.—

(1) Any person desiring to be licensed as a psychologist shall apply to the department to take the licensure examination. The department shall license each applicant who the board certifies has:

(a) Completed the application form and remitted a nonrefundable application fee not to exceed \$500 and an examination fee set by the board sufficient to cover the actual per applicant cost to the department for development, purchase, and administration of the examination, but not to exceed \$500.

(b) Submitted proof satisfactory to the board that the applicant has:

1. Received doctoral-level psychological education, as defined in s. 490.003(3);

2. Received the equivalent of a doctoral-level psychological education, as defined in s. 490.003(3), from a program at a school or university located outside the United States of America and Canada, which was officially recognized by the government of the country in which it is located as an institution or program to train students to practice professional psychology. The burden of establishing that the requirements of this provision have been met shall be upon the applicant;

3. Received and submitted to the board, prior to July 1, 1999, certification of an augmented doctoral-level

psychological education from the program director of a doctoral-level psychology program accredited by a programmatic agency recognized and approved by the United States Department of Education; or

4. Received and submitted to the board, prior to August 31, 2001, certification of a doctoral-level program that at the time the applicant was enrolled and graduated maintained a standard of education and training comparable to the standard of training of programs accredited by a programmatic agency recognized and approved by the United States Department of Education. Such certification of comparability shall be provided by the program director of a doctoral-level psychology program accredited by a programmatic agency recognized and approved by the United States Department of Education.

(c) Had at least 2 years or 4,000 hours of experience in the field of psychology in association with or under the supervision of a licensed psychologist meeting the academic and experience requirements of this chapter or the equivalent as determined by the board. The experience requirement may be met by work performed on or off the premises of the supervising psychologist if the off-premises work is not the independent, private practice rendering of psychological services that does not have a psychologist as a member of the group actually rendering psychological services on the premises.

(d) Passed the examination. However, an applicant who has obtained a passing score, as established by the board by rule, on the psychology licensure examination designated by the board as the national licensure examination need only pass the Florida law and rules portion of the examination.

(2) Any person desiring to be licensed as a school psychologist shall apply to the department to take the licensure examination. The department shall license each applicant who the department certifies has:

(a) Satisfactorily completed the application form and submitted a nonrefundable application fee not to exceed \$250 and an examination fee sufficient to cover the per applicant cost to the department for development, purchase, and administration of the examination, but not to exceed \$250 as set by department rule.

(b) Submitted satisfactory proof to the department that the applicant:

1. Has received a doctorate, specialist, or equivalent degree from a program primarily psychological in nature and has completed 60 semester hours or 90 quarter hours of graduate study, in areas related to school psychology as defined by rule of the department, from a college or university which at the time the applicant was enrolled and graduated was accredited by an accrediting agency recognized and approved by the Commission on Recognition of Postsecondary Accreditation or an institution which is publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada.

2. Has had a minimum of 3 years of experience in school psychology, 2 years of which must be supervised by an individual who is a licensed school psychologist or who has otherwise qualified as a school psychologist supervisor, by education and experience, as set forth by rule of the department. A doctoral internship may be applied toward the supervision requirement.

3. Has passed an examination provided by the department.

(3)(a) The board shall close the application file of any applicant who fails to pass the psychology licensure examination and the Florida law and rules portion of the examination or who fails to submit evidence of completion of the postdoctoral, supervised experience within a timeframe no longer than 24 months.

(b) The board shall implement a procedure by which an applicant may apply for an extension beyond the required timeframe.

(c) An individual who completes the required postdoctoral training residency may continue to practice under supervision if she or he does so in a manner prescribed by the board by rule, has a current application on file, and no final order of denial has been issued.

History.—ss. 1, 3, ch. 81-235; ss. 1, 3, ch. 83-265; s. 91, ch. 83-329; ss. 4, 18, 19, ch. 87-252; s. 36, ch. 88-205; s. 36, ch. 88-392; ss. 3, 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 91-429; s. 109, ch. 92-149; s. 30, ch. 94-310; s. 5, ch. 95-279; s. 3, ch. 97-198; s. 195, ch. 97-264; s. 302, ch. 98-166; s. 162, ch. 99-397; s. 1, ch. 2008-125.

490.0051 Provisional licensure; requirements.—

(1) The department shall issue a provisional psychology license to each applicant who the board certifies has:

(a) Completed the application form and remitted a nonrefundable application fee not to exceed \$250, as set by board rule.

(b) Earned a doctoral degree in psychology as defined in s. 490.003(3).

(c) Met any additional requirements established by board rule.

(2) A provisional licensee must work under the supervision of a licensed psychologist until the provisional licensee is in receipt of a license or a letter from the department stating that he or she is licensed as a psychologist.

(3) A provisional license expires 24 months after the date it is issued and may not be renewed or reissued.

History.—s. 4, ch. 97-198; s. 196, ch. 97-264.

490.006 Licensure by endorsement.—

(1) The department shall license a person as a psychologist or school psychologist who, upon applying to the department and remitting the appropriate fee, demonstrates to the department or, in the case of psychologists, to the board that the applicant:

(a) Holds a valid license or certificate in another state to practice psychology or school psychology, as applicable, provided that, when the applicant secured such license or certificate, the requirements were substantially equivalent to or more stringent than those set forth in this chapter at that time; and, if no Florida law existed at that time, then the requirements in the other state must have been substantially equivalent to or more stringent than those set forth in this chapter at the present time;

(b) Is a diplomate in good standing with the American Board of Professional Psychology, Inc.; or

(c) Possesses a doctoral degree in psychology as described in s. 490.003 and has at least 20 years of experience as a licensed psychologist in any jurisdiction or territory of the United States within 25 years preceding the date of application.

(2) In addition to meeting the requirements for licensure set forth in subsection (1), an applicant must pass that portion of the psychology or school psychology licensure examinations pertaining to the laws and rules related to the practice of psychology or school psychology in this state before the department may issue a license to the applicant.

(3) The department shall not issue a license by endorsement to any applicant who is under investigation in this or another jurisdiction for an act which would constitute a violation of this chapter until such time as the investigation is complete, at which time the provisions of s. 490.009 shall apply.

History.—ss. 1, 3, ch. 81-235; ss. 1, 3, ch. 83-265; ss. 5, 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 4, 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 91-429; s. 6, ch. 95-279; s. 163, ch. 99-397.

490.007 Renewal of license.—

(1) The department or, in the case of psychologists, the board shall prescribe by rule a method for the biennial renewal of a license at a fee set by rule, not to exceed \$500.

(2) Each applicant for renewal shall present satisfactory evidence that, in the period since the license was issued, the applicant has completed continuing education requirements set by rule of the department or, in the case of psychologists, by rule of the board. Not more than 25 hours of continuing education per year shall be required.

History.—ss. 1, 3, ch. 81-235; s. 102, ch. 83-218; ss. 1, 3, ch. 83-265; s. 116, ch. 83-329; ss. 6, 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 91-429; s. 110, ch. 92-149; s. 286, ch. 94-119.

490.0085 Continuing education; approval of providers, programs, and courses; proof of completion.—

(1) Continuing education providers, programs, and courses shall be approved by the department or, in the

case of psychologists, the board.

(2) The department or, in the case of psychologists, the board has the authority to set a fee not to exceed \$500 for each applicant who applies for or renews provider status. Such fees shall be deposited into the Medical Quality Assurance Trust Fund.

(3) Proof of completion of the required number of hours of continuing education shall be submitted to the department in the manner and time specified by rule and on forms provided by the department.

(4) The department or, in the case of psychologists, the board shall adopt rules and guidelines to administer and enforce the provisions of this section.

History.—ss. 1, 2, ch. 84-168; ss. 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 91-429; s. 111, ch. 92-149; s. 7, ch. 95-279; s. 164, ch. 99-397.

490.009 Discipline.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(a) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery or fraudulent misrepresentation or through an error of the board or department.

(b) Having a license to practice a comparable profession revoked, suspended, or otherwise acted against, including the denial of certification or licensure by another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of his or her profession or the ability to practice his or her profession. A plea of nolo contendere creates a rebuttable presumption of guilt of the underlying criminal charges. However, the board shall allow the person who is the subject of the disciplinary proceeding to present any evidence relevant to the underlying charges and circumstances surrounding the plea.

(d) False, deceptive, or misleading advertising or obtaining a fee or other thing of value on the representation that beneficial results from any treatment will be guaranteed.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Maintaining a professional association with any person who the applicant or licensee knows, or has reason to believe, is in violation of this chapter or of a rule of the department or, in the case of psychologists, of the department or the board.

(g) Knowingly aiding, assisting, procuring, or advising any nonlicensed person to hold himself or herself out as licensed under this chapter.

(h) Failing to perform any statutory or legal obligation placed upon a person licensed under this chapter.

(i) Willfully making or filing a false report or record; failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record; or inducing another person to make or file a false report or record or to impede or obstruct the filing of a report or record. Such report or record includes only a report or record which requires the signature of a person licensed under this chapter.

(j) Paying a kickback, rebate, bonus, or other remuneration for receiving a patient or client, or receiving a kickback, rebate, bonus, or other remuneration for referring a patient or client to another provider of mental health care services or to a provider of health care services or goods; referring a patient or client to oneself for services on a fee-paid basis when those services are already being paid for by some other public or private entity; or entering into a reciprocal referral agreement.

(k) Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined in s. 490.0111.

(l) Making misleading, deceptive, untrue, or fraudulent representations in the practice of any profession licensed under this chapter.

(m) Soliciting patients or clients personally, or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct.

(n) Failing to make available to a patient or client, upon written request, copies of test results, reports, or documents in the possession or under the control of the licensee which have been prepared for and paid for by the patient or client.

(o) Failing to respond within 30 days to a written communication from the department concerning any investigation by the department or to make available any relevant records with respect to any investigation about the licensee's conduct or background.

(p) Being unable to practice the profession for which he or she is licensed under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the State Surgeon General, the State Surgeon General's designee, or the board that probable cause exists to believe that the licensee is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee to submit to a mental or physical examination by psychologists or physicians designated by the department or board. If the licensee refuses to comply with the department's order, the department may file a petition for enforcement in the circuit court of the circuit in which the licensee resides or does business. The licensee shall not be named or identified by initials in the petition or in any other public court records or documents, and the enforcement proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall be afforded an opportunity at reasonable intervals to demonstrate that he or she can resume the competent practice for which he or she is licensed with reasonable skill and safety to patients.

(q) Performing any treatment or prescribing any therapy which, by the prevailing standards of the mental health professions in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(r) Failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee is not qualified by training or experience.

(s) Delegating professional responsibilities to a person whom the licensee knows or has reason to know is not qualified by training or experience to perform such responsibilities.

(t) Violating a rule relating to the regulation of the profession or a lawful order of the department previously entered in a disciplinary hearing.

(u) Failing to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 490.0147.

(v) Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The department, or in the case of psychologists, the board, may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

History.—ss. 1, 3, ch. 81-235; s. 35, ch. 83-215; ss. 1, 3, ch. 83-265; s. 9, ch. 84-203; ss. 8, 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 6, 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 91-429; s. 112, ch. 92-149; s. 8, ch. 95-279; s. 228, ch. 96-410; s. 1135, ch. 97-103; s. 6, ch. 97-198; s. 198, ch. 97-264; s. 150, ch. 98-166; s. 209, ch. 2000-160; s. 52, ch. 2001-277; s. 27, ch. 2005-240; s. 102, ch. 2008-6.

490.0111 Sexual misconduct.—Sexual misconduct by any person licensed under this chapter, in the practice of her or his profession, is prohibited. Sexual misconduct shall be defined by rule.

History.—ss. 1, 3, ch. 81-235; ss. 1, 3, ch. 83-265; ss. 9, 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 91-429; s. 502, ch. 97-103.

490.012 Violations; penalties; injunction.—

(1)(a) No person shall hold herself or himself out by any professional title, name, or description incorporating the word “psychologist” unless such person holds a valid, active license as a psychologist under this chapter.

(b) No person shall hold herself or himself out by any professional title, name, or description incorporating the words “school psychologist” unless such person holds a valid, active license as a school psychologist under this chapter or is certified as a school psychologist by the Department of Education.

(c) No person shall hold herself or himself out by any title or description incorporating the words, or permutations of them, “psychology,” “psychological,” or “psychodiagnostic,” or describe any test or report as psychological, unless such person holds a valid, active license under this chapter or is exempt from the provisions of this chapter.

(d) No person shall hold herself or himself out by any title or description incorporating the word, or a permutation of the word, “psychotherapy” unless such person holds a valid, active license under chapter 458, chapter 459, chapter 490, or chapter 491, or such person is certified as an advanced registered nurse practitioner, pursuant to s. 464.012, who has been determined by the Board of Nursing as a specialist in psychiatric mental health.

(e) No person licensed or provisionally licensed pursuant to this chapter shall hold herself or himself out by any title or description which indicates licensure other than that which has been granted to her or him.

(2)(a) A licensed psychologist shall conspicuously display the valid, active license issued by the department or a true copy thereof at each location at which the licensee practices his or her profession.

(b) A licensed psychologist shall include the words “licensed psychologist” on all professional advertisements, including, but not limited to, advertisements in any newspaper, magazine, other print medium, airwave or broadcast transmission, or phone directory listing purchased by or on behalf of a person licensed according to this chapter.

(3)(a) A person provisionally licensed under this chapter as a provisional psychologist licensee shall conspicuously display the valid provisional license issued by the department or a true copy thereof at each location at which the provisional licensee is providing services.

(b) A provisional psychologist licensee shall include the words “provisional psychologist licensee” on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the provisional licensee.

(4) Any person who violates any provision of this section, except for subsections (2) and (3), commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who violates any provision of subsection (2) or subsection (3) is subject to disciplinary action under s. 490.009.

(5) The department may institute appropriate proceedings to enjoin violation of subsection (1).

(6) No person shall practice psychology in this state, as such practice is defined in s. 490.003(4), for compensation, unless such person holds an active, valid license to practice psychology issued pursuant to this chapter. Nothing in this subsection shall be construed to limit the practice of school psychology, as such practice is defined in s. 490.003(5).

(7) No person shall practice school psychology in this state, as such practice is defined in s. 490.003(5), for compensation, unless such person holds an active, valid license to practice school psychology issued pursuant to this chapter.

(8) Effective October 1, 2000, a person may not practice juvenile sexual offender therapy in this state, as the practice is defined in s. 490.0145, for compensation, unless the person holds an active license issued under this chapter and meets the requirements to practice juvenile sexual offender therapy. An unlicensed person may be employed by a program operated by or under contract with the Department of Juvenile Justice or the Department of Children and Family Services if the program employs a professional who is licensed under

chapter 458, chapter 459, s. 490.0145, or s. 491.0144 who manages or supervises the treatment services.

History.—ss. 1, 3, ch. 81-235; ss. 1, 3, ch. 83-265; ss. 10, 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 8, 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 3, ch. 90-263; s. 4, ch. 91-429; s. 113, ch. 92-149; s. 503, ch. 97-103; s. 7, ch. 97-198; s. 199, ch. 97-264; s. 2, ch. 98-158; s. 125, ch. 2001-277.

490.0121 Licensed school psychologists; private sector services.—It shall not be a violation of s. 112.313(7) for a licensed school psychologist employed by a school district to provide private sector services to students within that district if:

- (1) The parent, guardian, or adult client is informed in writing prior to provision of services of their eligibility for such free services from the school district.
- (2) The client is not a student of the schools to which the school psychologist is currently assigned.
- (3) The parent, guardian, or adult client is informed that, as a dual practitioner, the school psychologist may not function as an independent evaluator.
- (4) The school psychologist does not promise 24-hour service or on-call services and does not engage in private practice during hours of contracted employment.
- (5) The school psychologist does not use his or her position within a school district to offer private services or to promote a private practice.
- (6) The school psychologist does not utilize tests, materials, or services belonging to the school district.

History.—s. 116, ch. 92-149; s. 504, ch. 97-103.

490.014 Exemptions.—

(1)(a) No provision of this chapter shall be construed to limit the practice of physicians licensed pursuant to chapter 458 or chapter 459 so long as they do not hold themselves out to the public as psychologists or use a professional title protected by this chapter.

(b) No provision of this chapter shall be construed to limit the practice of nursing, clinical social work, marriage and family therapy, mental health counseling, or other recognized businesses or professions, or to prevent qualified members of other professions from doing work of a nature consistent with their training, so long as they do not hold themselves out to the public as psychologists or use a title or description protected by this chapter. Nothing in this subsection shall be construed to exempt any person from the provisions of s. 490.012.

(2) No person shall be required to be licensed or provisionally licensed under this chapter who:

(a) Is a salaried employee of a government agency; a developmental disability facility or program; a mental health, alcohol, or drug abuse facility operating under chapter 393, chapter 394, or chapter 397; the statewide child care resource and referral network operating under s. 411.0101; a child-placing or child-caring agency licensed pursuant to chapter 409; a domestic violence center certified pursuant to chapter 39; an accredited academic institution; or a research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution, so long as the employee is not held out to the public as a psychologist pursuant to s. 490.012(1)(a).

(b) Is a salaried employee of a private, nonprofit organization providing counseling services to children, youth, and families, if such services are provided for no charge, if such employee is performing duties for which he or she was trained and hired, so long as the employee is not held out to the public as a psychologist pursuant to s. 490.012(1)(a).

(c) Is a student who is pursuing a course of study which leads to a degree in medicine or a profession regulated by this chapter who is providing services in a training setting, provided such activities or services constitute part of a supervised course of study, or is a graduate accumulating the experience required for any licensure under this chapter, provided such graduate or student is designated by a title such as “intern” or “trainee” which clearly indicates the in-training status of the student.

(d) Is certified in school psychology by the Department of Education and is performing psychological services

as an employee of a public or private educational institution. Such exemption shall not be construed to authorize any unlicensed practice which is not performed as a direct employee of an educational institution.

(e) Is not a resident of the state but offers services in this state, provided:

1. Such services are performed for no more than 5 days in any month and no more than 15 days in any calendar year; and
2. Such nonresident is licensed or certified by a state or territory of the United States, or by a foreign country or province, the standards of which were, at the date of his or her licensure or certification, equivalent to or higher than the requirements of this chapter in the opinion of the department or, in the case of psychologists, in the opinion of the board.

(f) Is a rabbi, priest, minister, or member of the clergy of any religious denomination or sect when engaging in activities which are within the scope of the performance of his or her regular or specialized ministerial duties and for which no separate charge is made, or when such activities are performed, with or without charge, for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination, or sect, and when the person rendering service remains accountable to the established authority thereof.

(3) No provision of this chapter shall be construed to limit the practice of any individual who solely engages in behavior analysis so long as he or she does not hold himself or herself out to the public as possessing a license issued pursuant to this chapter or use a title or description protected by this chapter.

(4) Nothing in this section shall exempt any person from the provisions of s. 490.012(1)(a)-(b).

(5) Except as stipulated by the board, the exemptions contained in this section do not apply to any person licensed under this chapter whose license has been suspended or revoked by the board or another jurisdiction.

History.—ss. 1, 3, ch. 81-235; s. 36, ch. 82-179; s. 40, ch. 83-216; ss. 1, 3, ch. 83-265; s. 92, ch. 83-329; ss. 11, 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 9, 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 90-263; s. 4, ch. 91-429; s. 114, ch. 92-149; s. 33, ch. 93-39; s. 9, ch. 95-279; s. 505, ch. 97-103; s. 8, ch. 97-198; s. 200, ch. 97-264; s. 156, ch. 98-403; s. 126, ch. 2001-277; s. 62, ch. 2006-227; s. 24, ch. 2010-210.

490.0141 Practice of hypnosis.—A licensed psychologist who is qualified as determined by the board may practice hypnosis as defined in s. 485.003(1). The provisions of this chapter may not be interpreted to limit or affect the right of any person qualified pursuant to chapter 485 to practice hypnosis pursuant to that chapter or to practice hypnosis for nontherapeutic purposes, so long as such person does not hold herself or himself out to the public as possessing a license issued pursuant to this chapter or use a title protected by this chapter.

History.—ss. 2, 3, ch. 84-168; ss. 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 91-429; ss. 115, 127, ch. 92-149; s. 2, ch. 95-279; s. 506, ch. 97-103; s. 210, ch. 2000-160.

490.0143 Practice of sex therapy.—Only a person licensed by this chapter who meets the qualifications set by the board may hold himself or herself out as a sex therapist. The board shall define these qualifications by rule. In establishing these qualifications, the board may refer to the sexual disorder and sexual dysfunction sections of the most current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association or other relevant publications.

History.—ss. 12, 19, ch. 87-252; s. 36, ch. 88-392; ss. 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 91-429; s. 507, ch. 97-103.

490.0145 The practice of juvenile sexual offender therapy.—Only a person licensed by this chapter who meets the qualifications set by the board may hold himself or herself out as a juvenile sexual offender therapist, except as provided in s. 491.0144. These qualifications shall be determined by the board. The board shall require training and coursework in the specific areas of juvenile sexual offender behaviors, treatments, and related issues. In establishing these qualifications, the board may refer to the sexual disorder and dysfunction sections of the most current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, Association for the Treatment of Sexual Abusers Practitioner's Handbook, or other

relevant publications.

History.—s. 3, ch. 98-158.

490.0147 Confidentiality and privileged communications.—Any communication between any person licensed under this chapter and her or his patient or client shall be confidential. This privilege may be waived under the following conditions:

(1) When the person licensed under this chapter is a party defendant to a civil, criminal, or disciplinary action arising from a complaint filed by the patient or client, in which case the waiver shall be limited to that action.

(2) When the patient or client agrees to the waiver, in writing, or when more than one person in a family is receiving therapy, when each family member agrees to the waiver, in writing.

(3) When there is a clear and immediate probability of physical harm to the patient or client, to other individuals, or to society and the person licensed under this chapter communicates the information only to the potential victim, appropriate family member, or law enforcement or other appropriate authorities.

History.—ss. 13, 19, ch. 87-252; s. 36, ch. 88-392; ss. 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 91-429; s. 508, ch. 97-103.

490.0148 Psychologist and school psychologist records.—Each psychologist and school psychologist who provides services as defined in this chapter shall maintain records. The board or, in the case of a school psychologist, the department may adopt rules defining the minimum requirements for such records, including content, length of time such records shall be maintained, and transfer of such records or of a summary of such records, or both, to a subsequent treating practitioner or other individual with the written consent of the client or clients.

History.—s. 117, ch. 92-149.

490.0149 Specialties.—

(1) As used in this section, the term “certified psychology specialist,” “board-certified psychology specialist,” or “psychology diplomate” means a psychologist with recognized special competency acquired through an organized sequence of formal education, training, experience, and professional standing that is recognized by a certifying body approved by the board pursuant to criteria adopted under subsection (3).

(2) A person licensed as a psychologist may not hold himself or herself out as a certified psychology specialist, board-certified psychology specialist, or psychology diplomate unless the person has received formal recognition from an approved certifying body.

(3) The board shall adopt rules to establish criteria for approval of certifying bodies that provide certification for specialties in psychology as provided in subsection (1). The criteria shall include that a certifying body:

(a) Be national in scope, incorporate standards of the profession, and collaborate closely with organizations related to specialization in psychology.

(b) Have clearly described purposes, bylaws, policies, and procedures.

(c) Have established standards for specialized practice of psychology.

(d) Provide assessments that include the development and implementation of an examination designed to measure the competencies required to provide services that are characteristic of the specialty area.

(4) A person licensed as a psychologist under this chapter may indicate the services he or she offers and may indicate that his or her practice is limited to one or more types of services when this accurately reflects his or her scope of practice.

History.—s. 1, ch. 2006-209.

490.015 Duties of the department.—

(1) All functions reserved to boards under chapter 456 shall be exercised by the department with respect to

the regulation of school psychologists and in a manner consistent with the exercise of its regulatory functions.

(2) The department shall adopt rules to implement the provisions of this chapter.

History.—ss. 1, 3, ch. 81-235; ss. 1, 3, ch. 83-265; ss. 14, 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 91-429; s. 151, ch. 98-166; s. 211, ch. 2000-160.