

by two independent appraisers mutually agreed upon by the parties. The fair market value thus recommended shall be reviewed by a review appraiser agreed to by the parties, and the fair market value thus determined, and supported by appraisals, may be the purchase price. The commissioner may exchange lands with land-owners abutting the right-of-way described in this section to eliminate diagonally-shaped separate fields.

Sec. 3. Minnesota Statutes 1971, Section 85.015, Subdivision 9, is repealed.

Sec. 4. This act is effective the day following its final enactment.

Approved May 24, 1973.

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## CHAPTER 685—S.F.No.47

[Coded in Part]

*An act relating to psychologists; providing for the licensure and regulation of the private practice of psychology; establishing a board of examiners and prescribing the powers and duties thereof; providing penalties; appropriating money; amending Minnesota Statutes 1971, Section 595.02; and repealing Minnesota Statutes 1971, Sections 148.79 to 148.86.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [148.88] PSYCHOLOGISTS; LICENSES; CITATION. Sections 1 to 12 may be cited as the Minnesota licensing law for psychologists.

Sec. 2: [148.89] DEFINITIONS. Subdivision 1. For the purpose of this act the term "private practice of psychology" means the application for a fee, monetary or otherwise, to the public of psychological principles in the description, prediction and modification of human behavior and emotional adjustment, including but not restricted to such practices as:

(1) Psychological assessment, including such functions as intelligence, personality, aptitude, and attitude appraisal;

(2) Psychological treatment of persons who have adjustment problems;

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- (3) Psychological counseling and guidance;
- (4) Conducting behavioral research; and
- (5) Teaching of psychology.

Subd. 2. For the purpose of this act the term "collaboration" means consultation between a licensed psychologist and a licensed consultant psychologist on at least an annual basis but shall not necessarily require consultation on each case referred to a licensed psychologist.

Sec. 3. [148.90] BOARD OF EXAMINERS. Subdivision 1. The state board of examiners of psychologists created pursuant to Laws 1951, Chapter 672, is abolished, the terms of office of its members are terminated, and a new state board of examiners of psychologists is hereby created with powers and duties as hereinafter prescribed. The new board shall consist of eleven members. In its initial composition, membership shall consist of (1) three psychologists whose qualifications shall be not less than those specified in section 4, subdivision 4, (2) two psychologists whose qualifications shall be those specified in section 4, subdivision 5, (3) two doctoral level psychologists, not necessarily licensed under this act, whose specialities broadly represent the fields of interest in psychology, and (4) four public members. After the initial appointments, members specified in clause (1) shall be licensed consulting psychologists and members specified in clause (2) shall be licensed psychologists. The initial appointments to the new board of examiners shall include among the eleven members the three individuals most recently appointed to the state board of examiners of psychologists herein abolished.

Subd. 2. The members of the board shall:

- (1) Be appointed by the governor.

Public members of the board shall broadly represent the public interest and shall not:

(a) be members of health professions licensed by the state of Minnesota;

(b) be a spouse, parent, child, or employee of a practicing psychologist or of a health professional licensed by the state of Minnesota;

(c) be persons who are or were before their retirement persons who were engaged on a full or part time basis in the practice of psychology;

- (2) Be residents of the state;

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(3) Subject to subdivision 3, serve for terms of four years, each term of office to expire on June 30, and no member of the board shall serve for more than two consecutive terms;

(4) Designate its officers, fix the compensation of its employees, employ such personnel as it deems necessary, and pursuant to Minnesota Statutes, Chapter 15, prescribe such rules and regulations as may be necessary to enable it to carry into effect the provisions of this act; and

(5) Administer oaths pertaining to the business of the board.

Subd. 3. The governor shall appoint the two appointees at the psychologist level for their initial term of office so as to give one a two year term, and one a three year term; the three appointees at the consulting psychologist level shall be appointed so as to give one a two year term, and one a four year term; the remaining two psychologists shall be appointed so as to give one a three year term and one a four year term. The governor shall appoint the initial public members of the board so that one member has a one year term, one member has a two year term, one member has a three year term and one member has a four year term. Thereafter, all appointees shall serve full four year terms of office. Each member shall hold office until a successor is appointed and qualifies. If a vacancy occurs, it shall be filled by appointment by the governor for the unexpired portion of the term.

Subd. 4. The board shall annually report in writing to the governor. Such reports shall include the names of all psychologists to whom licenses have been granted as provided in sections 4 and 5, as well as any cases heard and decisions rendered; recommendations as to future policies, rules, and regulations; the names, remuneration, and duties of its employees; and an account of all moneys received and expended by it.

Subd. 5. The members of the board shall receive the sum of \$35 for each day actually employed in the discharge of his official duties and his necessary expenses incurred incidental thereto in the manner of state employees.

Sec. 4. [148.91] REQUIREMENTS OF LICENSES. Subdivision 1. The board of examiners may grant licenses for two levels of psychological practice. The persons so licensed are to be known and are hereafter referred to as (a) licensed consulting psychologist and (b) licensed psychologist, or if both levels are referred to, as licensee.

Subd. 2. Before granting any such license the board shall require every applicant therefor to pass an examination in psychology. This examination shall be given at least once each year, at

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such time and place and under such supervision as the board prescribes.

Subd. 3. Each applicant shall pay a nonrefundable application fee of \$75 set by the board. The licenses granted hereunder shall be valid for a period of two years from date of issuance, but may be renewed biennially. The fee for renewal shall be \$35.

Subd. 4. To become a licensed consulting psychologist a person must fulfill and comply with the requirements of subdivision 2 and satisfy the board that he:

(1) Has attained the age of majority;

(2) Is of good moral character and is not found to be engaging in unethical practices as defined within the code of ethics adopted pursuant to section 11;

(3) Has received a doctorate degree with a major in psychology, which may include educational and child psychology, from an educational institution meeting standards which may be prescribed by regulation of the board; and

(4) Has had at least two full years or their equivalent of post doctoral employment as a psychologist.

Subd. 5. To become a licensed psychologist, a person must have:

(1) Received a doctorate or master's degree or has received the equivalent of a master's degree in a doctoral program with a major in psychology, which may include educational and child psychology, from an educational institution meeting the standards which may be prescribed by regulation of the board;

(2) At least two full years of experience or its equivalent of employment as a psychologist after receiving the training upon which application for this license is made;

(3) Otherwise fulfilled and complied with subdivision 2 and subdivision 4, clauses (1) and (2).

Sec. 5. [148.92] WAIVERS. Subdivision 1. For a period of two years from the effective date of this act the board shall waive the requirements of section 4, subdivision 2, and grant the appropriate license to any person who meets or has met the requirements of section 4, subdivisions 3, and 4, or 5, who is qualified by experience to practice at the appropriate level of psychology, and who has engaged in such practice of a nature satisfactory to the board for at least two years or its equivalent, within five years prior to the effective date of this act.

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Subd. 2. The board may grant a license without an examination to any person who at the time of application is licensed or certified by a similar board of another state whose standards, in the judgment of the board, are not lower than those required by this act at the time he was licensed or certified in said state; or who is a diplomate of the American board of professional psychology.

Subd. 3. The board may grant a license as a consulting psychologist without an examination to any person residing in the state who has applied for said license on or before a date two years after the effective date of this act and who fulfills and complies with section 4, subdivisions 3, 4, clauses (1) and (2), and 5, clause (1), and who has had at least ten years experience of a type satisfactory to the board.

Sec. 6. [148.93] LIMITATION. A licensed psychologist may engage in private practice only in collaboration with at least one licensed consulting psychologist in his field of practice. In addition, a licensed psychologist so collaborating may form any other working relationships with members of his own or other professions insofar as these do not violate other sections of this or other Minnesota Statutes. It shall be unlawful for any licensed psychologist or licensed consulting psychologist to divide fees with, or to pay a commission to, or to pay a referral fee to any other person who calls him in consultation or sends clients to him for psychological services as defined in this act, provided that payment of a fee for collaborative services performed is not prohibited by this section.

Sec. 7. [148.94] REVIEW. Any action of, or ruling, or order made or entered by the board declining to issue a license or recommending suspension or revocation of a license shall be subject to review under the procedures of the Minnesota Statutes, Chapter 15 and subject to the same powers and conditions as now provided by law in regard to rulings, orders and findings of other quasijudicial bodies in Minnesota, where not otherwise specifically provided.

Sec. 8. [148.95] SUSPENSION AND REVOCATION. Subdivision 1. The license of any consulting psychologist or psychologist may be suspended or revoked by the board upon proof that he has been guilty of unprofessional conduct as defined by the rules established by the board or has violated the code of ethics adopted by the board.

(1) No license shall be suspended or revoked or reprimand issued until after a hearing before the board. A notice of at least 30 days shall be served upon the licensee charged, either personally or by registered mail, stating the time and place of the hearing and setting forth the ground or grounds constituting the charges

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against him. The licensee is entitled to be heard in his defense and by counsel and may produce testimony and may testify in his own behalf. A record of the hearing shall be taken and presented. The hearing may be adjourned as necessary. If the licensee fails or refuses to appear, the board may proceed to hear and determine the charges in his absence. If he pleads guilty, or if upon hearing the charges, six members of the board find them to be true, the board may enter an order suspending or revoking the license or reprimanding him, as the case may be. The board shall record its findings and orders in writing.

(2) The board, through its chairman or vice chairman, may compel the attendance of witnesses and the production of physical evidence before it from witnesses upon whom process is served anywhere within the state as in civil cases in the district court by subpoena issued over the signature of the chairman or vice chairman and the seal of the board. Upon request by an accused licensee and statement under oath that the testimony or evidence is reasonably necessary to his defense, the subpoena shall be served out of the district courts in this state and returned as a return in such case is made.

(3) For reasons it deems sufficient and upon a vote of five of its members, the board may restore a license which has been revoked, reduce a period of suspension or withdraw a reprimand.

**Sec. 9. [148.96] PRESENTATION TO PUBLIC.** No individual shall present himself or permit himself to be presented to the public by any title incorporating the word "psychological," "psychologist," or "psychology" other than those so licensed by this act; except that:

(1) Any psychologically trained individual employed by educational institutions recognized by a regional accrediting organization, federal, state, county, or local governmental institutions, agencies, research facilities, or agencies providing services on a contracting basis may represent himself by the academic or research title designated by that organization;

(2) Any psychologically trained individual from such recognized institutions, as given in clause (1), may offer lecture services and be exempt from the provisions of this section; and

(3) Persons preparing for the profession of psychologist under qualified supervision in recognized training institutions or facilities may be designated by such titles as "psychological intern," "psychological trainee," or others clearly indicating such training status.

**Sec. 10. [148.97] PENALTIES. Subdivision 1.** Any person who shall engage in the private practice of psychology without

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having obtained a license under this act and any person who shall violate any other provision of this act shall be guilty of a misdemeanor.

Subd. 2. The practice of psychology without a license as defined in this act may be enjoined by a district court of the state of Minnesota on petition by the board. In any such proceeding it shall not be necessary to show that any person is individually injured by the actions complained of. If the respondent is found guilty of the unlawful practice of psychology, the court shall enjoin him from so practicing unless and until he has been duly licensed. Procedure in such cases shall be the same as in any other injunction suit. The remedy by injunction hereby given is in addition to criminal prosecution and punishment.

Subd. 3. (1) Nothing in this act shall be construed to limit the professional pursuits consistent with their training and code of ethics of professions such as teachers in recognized public and private schools, clergymen, physicians, social workers, alcohol or drug counselors, or optometrists or attorneys. However, in such performance any title used must be in accord with section 9.

(2) Persons preparing for the profession of psychology may perform as a part of their training any functions specified in section 2, but only under qualified supervision.

(3) Use of psychological techniques by business and industrial organizations for their own personnel purposes or by employment agencies or state vocational rehabilitation agencies for the evaluation of their own clients prior to recommendation for employment is also specifically allowed. However, no representative of an industrial or business firm or corporation may sell or offer for sale any psychological services as specified in section 2 unless such services are performed or supervised by individuals licensed under this act.

Subd. 4. Nothing in this act is to be construed as restricting a sociologist who holds a doctoral degree in sociology or social psychology awarded by an accredited institution, and who elects to represent himself to the public by the title "social psychologist" and who has notified the board of his intention to represent himself as such.

Subd. 5. A psychological consultant who is not a resident of the state of Minnesota, but is licensed or certified by a similar board of another state whose standards, in the judgment of the board, are not lower than those required by this act at the time he was licensed or certified in said state or who meets the requirements of section 4, subdivision 4, and resides in a state which does not grant certification or licenses to psychologists may offer

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professional services in this state for no more than 60 days in any calendar year without holding a license under this act, provided that such persons shall report to the board the nature and extent of their practice in this state if it exceeds 12 days in any calendar year.

Subd. 6. Nothing in this act shall be construed to authorize a person licensed under this act to engage in the practice of any other profession licensed under Minnesota law unless he is duly licensed in that profession.

Sec. 11. [148.98] CODE OF ETHICS. The board of examiners shall adopt a code of ethics to govern appropriate practices or behavior, as referred to in section 2. The board of examiners shall file such code with the secretary of state at least 30 days prior to the effective date of such code. This code of ethics shall include, but not be limited to, the following principles:

(1) The psychologist recognizes the boundaries of his competence and the limitation of his techniques and does not offer services or use techniques that fail to meet professional standards established in particular fields.

(2) The psychologist who engages in practice assists his client in obtaining professional help for all important aspects of his problem that fall outside the boundaries of the psychologist's competence.

(3) A psychologist does not claim either directly or by implication professional qualifications that differ from actual qualifications; nor does he misrepresent his affiliation with any institution, organization, or individual, nor lead others to assume he has affiliations that he does not have.

Sec. 12. [148.99] FEES DEPOSITED IN THE GENERAL FUND. Subdivision 1. All fees charged and collected by the board shall be deposited by it in the state treasury to the credit of the general fund.

Subd. 2. All moneys credited and appropriated to the state board of examiners of psychologists created pursuant to Laws 1971, Chapter 672, shall be transferred, on the effective date of this act, to the credit of the general fund in the state treasury.

Sec. 13. Minnesota Statutes 1971, Section 595.02, is amended to read:

**595.02 COMPETENCY OF WITNESSES.** Every person of sufficient understanding, including a party, may testify in any action or proceeding, civil or criminal, in court or before any person who has authority to receive evidence, except as follows:

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(1) A husband cannot be examined for or against his wife without her consent, nor a wife for or against her husband without his consent, nor can either, during the marriage or afterwards, without the consent of the other, be examined as to any communication made by one to the other during the marriage. This exception does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other or against a child of either, nor to a criminal action or proceeding in which one is charged with homicide or an attempt to commit homicide and the date of the marriage of the defendant is subsequent to the date of the offense, nor to an action or proceeding for non-support, neglect, dependency, or termination of parental rights;

(2) An attorney cannot, without the consent of his client, be examined as to any communication made by the client to him or his advice given thereon in the course of professional duty; nor can any employee of such attorney be examined as to such communication or advice, without the client's consent;

(3) A clergyman or other minister of any religion shall not, without the consent of the party making the confession, be allowed to disclose a confession made to him in his professional character, in the course of discipline enjoined by the rules or practice of the religious body to which he belongs; nor shall a clergyman or other minister of any religion be examined as to any communication made to him by any person seeking religious or spiritual advice, aid, or comfort or his advice given thereon in the course of his professional character, without the consent of such person;

(4) A licensed physician or surgeon, or dentist shall not, without the consent of his patient, be allowed to disclose any information or any opinion based thereon which he acquired in attending the patient in a professional capacity, and which was necessary to enable him to act in that capacity; after the decease of such patient, in an action to recover insurance benefits, where the insurance has been in existence two years or more, the beneficiaries shall be deemed to be the personal representatives of such deceased person for the purpose of waiving the privilege hereinbefore created, and no oral or written waiver of the privilege hereinbefore created shall have any binding force or effect except that the same be made upon the trial or examination where the evidence is offered or received;

(5) A public officer shall not be allowed to disclose communications made to him in official confidence when the public interest would suffer by the disclosure;

(6) Persons of unsound mind; persons intoxicated at the time of their production for examination, and children under ten years

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of age, who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly, are not competent witnesses;

(7) A psychologist or consulting psychologist shall not, without the consent of his client, be allowed to disclose any information or opinion based thereon which he acquired in attending the client in a professional capacity, and which was necessary to enable him to act in that capacity.

Sec. 14. Minnesota Statutes 1971, Sections 148.79; 148.80; 148.81; 148.82; 148.83; 148.84; 148.85; and 148.86, are repealed.

Sec. 15. APPROPRIATION. The sum of \$35,000 is appropriated from the general fund in the state treasury to the board for the purposes of this act for the biennium beginning July 1, 1973. This appropriation shall not lapse until July 1, 1975, notwithstanding Minnesota Statutes, Section 16.17 or other law.

Sec. 16. EFFECTIVE DATE. This act is effective July 1, 1973.

Approved May 24, 1973.

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## CHAPTER 686—S.F.No.160

[Coded]

*An act relating to food; requiring open dating of perishable food; directing the commissioner of agriculture to promulgate rules and regulations governing the dating, handling and labeling of perishable food; providing penalties.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [31.781] **FOOD; QUALITY ASSURANCE DATE; DECLARATION OF POLICY.** The legislature recognizes the entire food industry in the nation as leaders in the world in providing wholesome, nutritious, fresh and clean food to its citizens and to others. The Minnesota department of agriculture is hereby authorized and directed to promulgate rules and regulations which provide for a quality assurance date on perishable foods, to assure this industry's continuation and the degree of improvement reasonable and feasible, so as to provide people with wholesome, nutritious, fresh and clean food.

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