

Draft Guidelines for Disciplinary Actions
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Introduction

The State Board of Psychology (“Board”) is a regulatory agency with the primary mission of providing protections for the public and for consumers of psychological services, through examination and licensing, investigation of complaints regarding the professional conduct of Ohio’s psychologists and Board-licensed school psychologists, and levying of sanctions for violations. The Board bases these *Guidelines* on the positions that: 1) the Board is accountable to the public to appropriately sanction licensees who engage in misconduct, in an effort to foster the safe provision of psychological services and confidence in the profession; and, 2) the Board is accountable to the public, which includes the Board's licensees, to provide for optimal levels of consistency and fairness in the determination of sanctions for a given violation by ensuring attention to mitigating and aggravating circumstances on a case-specific basis. In this light, the Board has adopted these *Guidelines* for violations of the Law and Rules Governing Psychologists and School Psychologists, Chapter 4732 of the Ohio Revised Code (ORC) and the Ohio Administrative Code (OAC).

These *Guidelines* serve to inform the Board and the public, including the Board's licensees, of the general range of disciplinary actions associated with several categories of misconduct. No attempt is made to address all possible violations of the Law and Rules Governing Psychologists and School Psychologists. The Board recognizes and affirms that the penalties and conditions discussed herein are guidelines for Board action, and that individual case outcomes will be informed by consideration of contextual factors and unique circumstances. Some factors are further outlined below under “Aggravating and Mitigating Factors.” These sections are intended to provide for guidance and consideration of important factors and patterns related to each unique investigation. If the Board deems that there are circumstances sufficient to justify departure from these guidelines, these factors may be considered during post-hearing deliberations and the negotiation of consent agreements.

Rules of Professional Conduct from OAC 4732-17-01 are cited throughout these guidelines to provide for convenient and specific points of reference to regulatory language associated with Board actions. There is no attempt to make reference to the entire text of the OAC, which clearly juxtaposes language reflective of serious misconduct with more technical violations frequently resolved in the public interest through informal educative measures. Rather, rules which have historically required the Board's intervention through enforcement actions may be quoted. These guidelines are not intended to be exhaustive, and all laws and rules governing psychologists and school psychologists will be interpreted and enforced on a case-by-case basis.

Statutory Authority

Effective March 20, 2014, ORC 4732.17 (A) was amended to clarify the actions that can be imposed for violations of an amended set of grounds set forth in (C).

(A) Subject to division (F) of this section, the state board of psychology may take any of the actions specified in division (C) of this section against an applicant for or a person who holds a license issued under this chapter on any of the following grounds as applicable:

- (1) Conviction, including a plea of guilty or no contest, of a felony, or of any offense involving moral turpitude, in a court of this or any other state or in a federal court;
- (2) A judicial finding of eligibility for intervention in lieu of conviction for a felony or any offense involving moral turpitude in a court of this or any other state or in a federal court;
- (3) Using fraud or deceit in the procurement of the license to practice psychology or school psychology or knowingly assisting another in the procurement of such a license through fraud or deceit;
- (4) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals;
- (5) Willful, unauthorized communication of information received in professional confidence;
- (6) Being negligent in the practice of psychology or school psychology;
- (7) Inability to practice according to acceptable and prevailing standards of care by reason of a mental, emotional, physiological, or pharmacological condition or substance abuse;
- (8) Subject to section 4732.28 of the Revised Code, violating any rule of professional conduct promulgated by the board;
- (9) Practicing in an area of psychology for which the person is clearly untrained or incompetent;
- (10) An adjudication by a court, as provided in section 5122.301 of the Revised Code, that the person is incompetent for the purpose of holding the license. Such person may have the person's license issued or restored only upon determination by a court that the person is competent for the purpose of holding the license and upon the decision by the board that such license be issued or restored. The board may require an examination prior to such issuance or restoration.
- (11) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers psychological services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;
- (12) Advertising that the person will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers psychological services, would otherwise be required to pay;
- (13) Any of the following actions taken by the agency responsible for authorizing or certifying the person to practice or regulating the person's practice of a health care occupation or provision of health care services in this state or another jurisdiction, as evidenced by a certified copy of that agency's records and findings for any reason other than the nonpayment of fees:
 - (a) Limitation, revocation, or suspension of the person's license to practice;
 - (b) Acceptance of the person's license surrender;

- (c) Denial of a license to the person;
 - (d) Refuse to renew or reinstate the person's license;
 - (e) Imposition of probation on the person;
 - (f) Issuance of an order of censure or other reprimand against the person;
 - (g) Other negative action or finding against the person about which information is available to the public.
- (14) Offering or rendering psychological services after a license issued under this chapter has expired due to a failure to timely register under section 4732.14 of the Revised Code or complete continuing education requirements;
- (15) Offering or rendering psychological services after a license issued under this chapter has been placed in retired status pursuant to section 4732.142 of the Revised Code;
- (16) Unless the person is a school psychologist licensed by the state board of education:
- (a) Offering or rendering school psychological services after a license issued under this chapter has expired due to a failure to timely register under section 4732.14 of the Revised Code or complete continuing education requirements;
 - (b) Offering or rendering school psychological services after a license issued under this chapter has been placed in retired status pursuant to section 4732.142 of the Revised Code.
- (17) Violating any adjudication order or consent agreement adopted by the board;
- (18) Failure to submit to mental, cognitive, substance abuse, or medical evaluations, or a combination of these evaluations, ordered by the board under division (E) of this section.
- (B) Notwithstanding divisions (A) (11) and (12) of this section, sanctions shall not be imposed against any license holder who waives deductibles and copayments:
- (1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copays shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Such consent shall be made available to the board upon request.
 - (2) For professional services rendered to any other person licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board.
- (C) For any of the reasons specified in division (A) of this section, the board may do one or more of the following:
- (1) Refuse to issue a license to an applicant;
 - (2) Issue a reprimand to a license holder;
 - (3) Suspend the license of a license holder;
 - (4) Revoke the license of a license holder;
 - (5) Limit or restrict the areas of practice of an applicant or a license holder;
 - (6) Require mental, substance abuse, or physical evaluations, or any combination of these evaluations, of an applicant or a license holder;
 - (7) Require remedial education and training of an applicant or a license holder.
- (D) When it revokes the license of a license holder under division (C)(4) of this section, the board may specify that the revocation is permanent. An individual subject to permanent revocation is forever thereafter ineligible to hold a license, and the board shall not accept an application for reinstatement of the license or issuance of a new license.

Administrative Actions Not Subject to Public Disclosure

The Board recognizes that a range of options that are available when addressing complaints against its licensees. Such actions may be categorized in terms of whether they represent formal, public (“disciplinary”) actions or non-disciplinary procedures, and whether they are public or confidential. When the Board determines that the facts or circumstances of a case warrant, a number of interventions may be engaged to address concerns and to provide complaint resolutions in the public interest.

- ***Case Closed Without Board Action/No Fault Found***—Following investigation, allegations in a complaint may not reflect violation of law or rules, or there may be insufficient evidence or witness credibility to prove a violation at an administrative hearing. Such cases are only authorized for closure without formal action after two members of the Board have conducted independent reviews of the complaint and investigative file. In some instances, a complaint may be referred to another entity or closed secondary to lack of jurisdictional purview. Cases closed without formal Board action are confidential and are not made public.
- ***Educational Resolution***—Investigations may be resolved on a case-by case basis through educational interventions with the licensee. Such resolutions may include meeting with the licensee and may include an educational closure letter, summarizing the issues of the complaint and recommending corrections to procedures to avoid similar or more significant departures from standards in the future. Such resolutions are not considered to be disciplinary, and educational letters and investigative products associated with such administrative actions are confidential and are not subject to public records disclosure.

Aggravating and Mitigating Factors

Aggravation: Circumstances or factors that may justify an increase in the degree of discipline to be imposed. Aggravating circumstances may include:

- 1) Adverse impact on the welfare and quality of life of others
- 2) Substantial harm to the client(s) including exploitation of trust
- 3) High level of vulnerability of the victim
- 4) Willful, reckless misconduct
- 5) Lack of insight into the wrongfulness of the conduct
- 6) Pattern of misconduct
- 7) Prior disciplinary actions
- 8) Any other relevant factor identified by the Board

Mitigation: Circumstances or factors that may justify a reduction in the degree of discipline to be imposed. Mitigating factors may include:

- 1) Absence of adverse impact on the welfare and quality of life of others
- 2) Absence of willful or reckless misconduct
- 3) Minimal or no demonstrated harm to client(s)
- 4) Physical or psychological impairment or disability
- 5) Potential impact of corrective rehabilitative/remedial measures
- 6) Absence of prior disciplinary record
- 7) The misconduct is unlikely to reoccur
- 8) Any other relevant factor identified by the Board

“Conditions may be attached” as used below as an option includes but is not necessarily limited to the following:

Limit or restrict the areas of practice of an applicant or a license holder; require mental, substance abuse, or physical evaluations, or any combination of these evaluations, of an applicant or a license holder; require remedial education and training of an applicant or a license holder.

See page 30 for additional guidance.

Negligence

ORC 4732.17 (6) Being negligent in the practice of psychology or school psychology

OAC 4732-17-01 (B) Negligence

(B) Negligence:

(1) A license holder in a professional psychological role, as that term is defined in paragraph (R) of rule 4732-3-01 of the Administrative Code shall be considered negligent if his/her behaviors toward his/her clients, evaluatees, supervisees, employees or students, in the judgment of the board, clearly fall below the standards for acceptable practice of psychology or school psychology.

Guidelines: Negligence (B) (1)

Minimum penalty: Reprimand; conditions may be attached

Maximum penalty: Revocation of license; denial of license application

Sexual Harassment

OAC 4732-17-01 (B) Negligence

(2) Sexual harassment. License holders shall not engage in sexual harassment. Sexual harassment is sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with the psychologist's activities or roles as a psychologist, and that either (a) is unwelcome, is offensive, or creates a hostile workplace or educational environment, and the psychologist knows or is told this or (b) is sufficiently severe or intense to be abusive to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or of multiple persistent or pervasive acts.

Guidelines: Sexual Harassment

Minimum penalty: Active license suspension, with term dependent on circumstances; conditions may be attached

Maximum penalty: Revocation of license; denial of license application

Misrepresentation, Solicitation, and Promotion

OAC 4732-17-01 (B) Negligence

(3) Misrepresentation of qualifications. A license holder shall not misrepresent directly or by implication his/her professional qualifications such as education, specialized training, experience, or area(s) of competence.

(4) Misrepresentation of affiliations. A license holder shall not misrepresent directly or by implication his/her affiliations or the purposes or characteristics of institutions and organizations with which the psychologist is associated.

(a) A license holder shall not claim either directly or by implication professional qualifications that differ from actual qualifications, including use of a degree or title that is not relevant to his/her psychological training or that is issued by an educational institution not meeting accreditation standards, he/she shall not misrepresent affiliation with any institution, organization, or individual, nor lead others to assume he/she has affiliations that he/she does not have. A psychologist or school psychologist is responsible for correcting a client or public media who misrepresent his/her professional qualifications or affiliations, if he/she has knowledge of this misrepresentation.

(b) A license holder shall not include false or misleading information in public statements concerning psychological services offered.

(c) A license holder shall not associate with or permit his/her name to be used in connection with any services or products in such a way as to misrepresent them, the degree of his/her responsibility for them, or the nature of his/her association with them.

(5) Solicitation of business by clients. A license holder shall not request or authorize any client to solicit business on behalf of the license holder.

(6) Promotional activities. A license holder associated with the development, promotion, or sale of psychological devices, books, or other products shall ensure that such devices, books, or products are not misrepresented as to qualities, performance or results to be obtained from their use.

Guidelines: Misrepresentation, Solicitation, and Promotion

Minimum penalty: Reprimand; conditions may be attached

Maximum penalty: Revocation of license; denial of license application

Maintenance and Retention of Records

OAC 4732-17-01 (B) Negligence

(7) Maintenance and retention of records.

(a) A license holder rendering professional individual services to a client, or services billed to a third-party payer, shall maintain a professional record that includes:

(i) The presenting problem(s); (ii) The date(s) and purpose, if not self-evident, of each service contact; (iii) The fee arrangement; (iv) Any test or other evaluative results obtained; (v) Test data; (vi) A copy of any test or other evaluative reports prepared as part of the professional relationship; (vii) Notation of providing verbal communication of assessment results in the absence of a written report; (viii) Notation and results of formal contacts with other providers; (ix) Authorizations, if any, by the client for release of records or information; (x) Written documentation indicating that the client or evaluatee has provided informed consent for treatment or evaluation; (xi) Justification and rationale for not releasing records to a client in response to a valid request, including the reason for making a determination for clearly stated treatment reasons that disclosure of the requested records is likely to have an adverse effect on the client, and shall comply with section (B) of division 3701.74 of the Revised Code; (xii) Knowledge of all multiple relationships present, with reasoning as to why it is in the best interest of the client and/or not harmful to continue the professional relationship; and

(b) To meet the requirements of these rules, but not necessarily for other legal purposes, the license holder shall ensure that all contents in the professional record are maintained for a period of not less than seven years after the last date of service rendered, or not less than the length of time required by other regulations if that is longer. A license holder shall retain records documenting services rendered to minors for not less than two years after the minor has reached the age of majority or for seven years after the last date of service, whichever is longer.

(c) A license holder shall store and dispose of written, electronic, and other records of clients in such a manner as to ensure their confidentiality. License holders shall prepare in advance and disseminate to an identifiable person a written plan to facilitate appropriate transfer and to protect the confidentiality of records in the event of the license holder's withdrawal from positions or practice. Each license holder shall report to the board on the biennial registration (renewal) form the name, address, and telephone number of a license holder or other appropriate person knowledgeable about the location of the written plan for transfer and custody of records and responsibility for records in the event of the licensee's absence, emergency or death. The written plan referenced in this rule shall be made available to the board upon request.

(d) In the event a complaint has been filed, a license holder shall provide the original or a full copy of the client file or other client-identifiable documents to the board upon request, provided that the request is accompanied by a copy of a release signed by the client.

(e) License holders shall provide clients with reasonable access to the record maintained. License holders shall be familiar with state and federal laws and regulations relevant to client access to their records of services, and shall limit clients' access to records only in exceptional circumstances in which the license holder determines for clearly stated treatment reasons that disclosure of the requested records is likely to have an adverse effect on the client.

Guidelines: Maintenance and retention of records

Minimum penalty: Reprimand; conditions may be attached

Maximum penalty: Revocation of license; Denial of license application

Conflicts of Interest

OAC 4732-17-01 (C) Welfare of the client, evaluatee, and associated persons

(1) Conflicts of interest. License holders actively identify, disclose, document, and remedy conflicts of interest and potential conflicts of interest. License holders actively clarify and document their role when providing or offering psychological or school psychological services. Notwithstanding paragraph (B)(7)(e) of this rule, conflict of interest situations include but are not limited to:

(a) License holders in a treatment role with two or more clients who have a relationship with each other, and who are aware of each other's participation in treatment (for example, couples and family members), shall clarify with all parties and document the nature of one's professional obligations to the various clients receiving services, including limits of confidentiality and access to records.

(b) License holders in a treatment role with one or more adults involved in a contested parenting time or custody dispute shall anticipate being asked to participate in conflicting roles. License holders shall clarify and document as early as feasible that his/her role is restricted to providing therapeutic services, and shall take appropriate action to avoid role conflicts.

(c) License holders in a treatment role with one or more adults involved in a contested parenting time or custody dispute shall not render verbal or written opinions to any person or entity, including but not limited to the client, any court, attorney, guardian ad litem, or other professional about a client's access or other person's access to, or parenting time with, any child.

(d) License holders in a treatment role with one or more children shall not render verbal or written opinions about any adult's access to or parenting time with the child client(s).

Guidelines: Conflicts of interest

Minimum penalty: Reprimand; conditions may be attached

Maximum penalty: Revocation of license; denial of license application

Sufficient Professional Information

OAC 4732-17-01 (C) Welfare of the client, evaluatee, and associated persons

(3) Sufficient professional information. A license holder rendering a formal professional opinion or recommendation about a person shall not do so without substantial professional information within a clearly defined role.

Guidelines: Sufficient professional information

Minimum penalty: Reprimand; conditions may be attached

Maximum penalty: Revocation of license; denial of license application

Informed Consent

OAC 4732-17-01 (C) Welfare of the client, evaluatee, and associated persons

(4) Informed consent. A license holder shall accord each client informed choice, confidentiality, and reasonable protection from physical or mental harm or danger.

(a) License holders clearly document written informed consent, permission, or assent, as warranted by the circumstances, for treatment or evaluation prior to proceeding with the provision of psychological or school psychological services.

(b) When a license holder is in an individual treatment role, there may be reason for a third party to join one or more sessions for a limited purpose. The license holder shall document in the record that the client or legal guardian has acknowledged understanding the purpose and need for the third party to be present and the circumstances and extent to which confidential information may be disclosed to the third party. The license holder shall document that the third party has provided an understanding that the individual is not a client, that there is no expectation of confidentiality between the license holder and the third party, and that the third party shall not have rights to access any part of the client's file (unless the client provides written authorization to release specific confidential information). A license holder shall not render opinions or recommendations to any person or entity, including but not limited to the client, any court, attorney, guardian ad litem, or other professional concerning such third parties.

(c) The license holder shall keep the client fully informed as to the purpose and nature of any treatment or other procedures, and of the person's right to freedom of choice regarding services offered. A license holder shall give a truthful, understandable, and reasonably complete account of a client's condition to the client or to those legally responsible for the care of the client in accord with informed consent processes.

(d) When a court or other adjudicative body orders an evaluation, assessment or intervention, the license holder shall document and inform the evaluatee(s) or client(s) of the parameters of the court order and shall not provide services or opinions beyond the parameters of the order.

(e) When a license holder provides services to two or more clients who have a relationship with each other and who are aware of each other's participation in treatment (for example, couples and family members), the license holder shall clarify with all parties and document the parties' understanding about how records of the services will be maintained, who has access to the records, and any limits of access to the records.

<p><u>Guidelines: Informed Consent</u></p> <p><u>Minimum penalty: Reprimand; conditions may be attached</u></p> <p><u>Maximum penalty: Revocation of license; denial of license application</u></p>
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Testing and Test Interpretation

OAC 4732-17-01 (F) Testing and test interpretation

(1) Assessment procedures (a) through (f)

(2) Test security. Psychological tests and other assessment devices shall not be reproduced or described in popular publications in ways that might invalidate the techniques. Test materials means manuals, instruments, protocols, and test questions or stimuli and does not include test data except as specified in paragraph (F)(3)(a) of rule 4732-17-01 of the Administrative Code. License holders make reasonable efforts to maintain the integrity and security of test materials and other assessment techniques consistent with law and contractual obligations. Access to such devices is limited to persons with professional interests who will safeguard their use: (a) through (c)

(3) Test interpretation. (a) through (c)

Guidelines: Testing and Test Interpretation

Minimum penalty: Reprimand; conditions may be attached

Maximum penalty: Revocation of license; Denial of license application

Confidentiality

4732-17-01 (G) Confidentiality

(1) Confidential information is information revealed by an individual or individuals or otherwise obtained by a psychologist or school psychologist, where there is reasonable expectation that it was revealed or obtained as a result of the professional relationship between the individual(s) and the psychologist or school psychologist. Such information is not to be disclosed by the psychologist or school psychologist without the informed consent of the individual(s). Reference sections (a) through (f).

(2) Protecting confidentiality of clients. In accordance with section 4732.19 of the Revised Code, the confidential relations and communications between a licensed psychologist or licensed school psychologist and clients are placed under the same umbrella of a privilege as those between physician and patient under division (B) of section 2317.02 of the Revised Code. The privilege is intended to protect the interest of the client by encouraging free disclosure to the licensed psychologist or the licensed school psychologist and by preventing such free disclosure to others. Thus, the client rather than the licensed psychologist or the licensed school psychologist holds and may assert the privilege. Reference sections (a) through (g).

Guidelines: Confidentiality Violations

Minimum penalty: Reprimand; conditions may be attached

Maximum penalty: Revocation of license; Denial of license application

Improper Financial Arrangements

Regulatory references from 4732-17-01 (D) Remuneration:

(1) Financial arrangements:

(a) All financial arrangements shall be made clear to each client in advance of billing, preferably within the initial session but no later than the end of the second session, unless such disclosure is contraindicated in the professional judgment of the licensee. In the event that disclosure is not made by the end of the second session, the psychologist or school psychologist bears the burden of demonstrating that the client was not harmed as a result of non-disclosure. Reference (b) through (e).

(2) Improper arrangements: Reference (a) through (d).

Guidelines: Improper Financial Arrangements

Minimum penalty: Reprimand; Conditions may be attached

Maximum penalty: Permanent revocation; Denial of license application

Multiple Relationships

4732-17-01 (E) Prohibited Multiple Relationships

(E) Multiple relationships.

(2) Prohibited multiple relationships. The board prescribes that certain multiple relationships are expressly prohibited due to inherent risks of exploitation, impaired judgment by clients, supervisees and evaluatees, and/or impaired judgment, competence or objectivity of the license holder.

(a) A license holder shall not:

(i) Undertake a professional psychological role with persons with whom he/she has engaged in sexual intercourse or other sexual intimacies; or

(ii) Undertake a professional psychological role with persons with whom he/she has had a familial, personal, social, supervisory, employment, or other relationship, and the professional psychological role results in: exploitation of the person; or, impaired judgment, competence, and/or objectivity in the performance of one's functions as a license holder.

Guidelines: Multiple Relationship (E)(2)(a)

Minimum penalty: Reprimand; conditions may be attached

Maximum penalty: Revocation of license; Denial of license application

Multiple Relationships

4732-17-01 (E) (2) Prohibited Multiple Relationships

(2) Prohibited multiple relationships. The board prescribes that certain multiple relationships are expressly prohibited due to inherent risks of exploitation, impaired judgment by clients, supervisees and evaluatees, and/or impaired judgment, competence or objectivity of the license holder.

(b) A license holder shall not:

(i) Engage in sexual intercourse or other sexual intimacies; or, verbal or nonverbal conduct that is sexual in nature with any current client, supervisee, evaluatee, or with any person closely associated with a current client, supervisee, or evaluatee; or

(ii) Establish any personal, financial, employment, or other relationship with any current client, supervisee, or evaluatee, or with any individual closely associated with a current client, supervisee, or evaluatee and the multiple relationship results in: exploitation of the person; or, impaired judgment, competence, and/or objectivity in the performance of one's functions as a license holder.

(c) A license holder shall not:

(i) Engage in sexual intercourse or other sexual intimacies; or, verbal or nonverbal conduct that is sexual in nature with any person with whom there has been a professional psychological role at any time within the previous twenty-four months; or

(ii) Enter into any personal, financial, employment or other relationship (other than reestablishing a professional psychological role) with any person with whom there has been a professional psychological role at any time within the previous twenty-four months and the multiple relationship results in: exploitation of the person; or, impaired judgment, competence, and/or objectivity in the performance of one's functions as a psychologist or school psychologist.

(d) A license holder shall not terminate or interrupt a professional role with any person for the purpose, expressed or implied, of entering into a sexual, personal, or financial relationship with that person or any individual closely associated with that person.

(e) The prohibitions established in paragraphs (E)(2)(b) and (E)(2)(c) of this rule extend indefinitely beyond twenty-four months after termination of the professional role if the person, secondary to emotional, mental, or cognitive impairment, remains vulnerable to exploitative influence.

Guidelines: Multiple Relationships (E)(2)(b)(c)(d)

Minimum penalty: License suspension, indefinite term, one-year minimum, with conditions for restoration; conditions may be attached

Maximum penalty: Revocation of license; Denial of license application

Impaired Practice

ORC 4732.17 (A) (7) Inability to practice according to acceptable and prevailing standards of care by reason of a mental, emotional, physiological, or pharmacological condition or substance abuse

4732-17-01 (E) Impaired psychologist or impaired school psychologist

(12) Practicing while impaired. A license holder shall not undertake or continue a professional psychological role when the judgment, competence, and/or objectivity of the license holder is impaired due to mental, emotional, physiological, pharmacological, or substance abuse conditions. If impaired judgment, competence, and/or objectivity develops after a professional role has been initiated, the license holder shall terminate the professional role in an appropriate manner, shall notify the client and/or other relevant parties of the termination in writing, and shall assist the client, supervisee, or evaluatee in obtaining appropriate services from another appropriate professional.

Guidelines: Impairment

Minimum penalty: Indefinite suspension, with conditions for restoration;

Maximum Penalty: Revocation of license; denial of application for licensure

Competence

ORC 4732.17 (9) Practicing in an area of psychology for which the person is clearly untrained or incompetent

OAC 4732-17-01 (H) Competence

- (1) Limits on practice.
- (2) Specialty standard of care.
- (3) Maintaining competency.

Guidelines: Competence

Minimum Penalty: Reprimand; Conditions may be attached

Maximum penalty: Revocation of license; Denial of license application

Supervision Rules

4732-13-04 Requirements pertaining to supervision

(B) Supervisor responsibilities pertaining to professional work supervision and professional training supervision. Reference (1) through (30).

(C) Supervisee responsibilities pertaining to professional work supervision and professional training supervision. Reference (1) through (15).

Guidelines: Supervision Rules Violations

Minimum penalty: Reprimand; conditions may be attached

Maximum penalty: License suspension, active term dependent on circumstance; denial of license application

Criminal Conviction

ORC 4732.17 (A)

(1) Conviction, including a plea of guilty or no contest, of a felony, or of any offense involving moral turpitude, in a court of this or any other state or in a federal court;

(2) A judicial finding of eligibility for intervention in lieu of conviction for a felony or any offense involving moral turpitude in a court of this or any other state or in a federal court;

Guidelines: Criminal conviction

Minimum penalty: License suspension, indefinite, with conditions for restoration as determined by the Board

Maximum penalty: Permanent revocation; Denial of license application

Telepsychology

OAC 4732-17-01 (I) Telepsychology

(6) License holders recognize that telepsychology is not appropriate for all psychological problems and clients, and decisions regarding the appropriate use of telepsychology are made on a case-by-case basis. License holders practicing telepsychology are aware of additional risks incurred when practicing psychology or school psychology through the use of distance communication technologies and take special care to conduct their professional practice in a manner that protects the welfare of the client and ensures that the client's welfare is paramount. License holders practicing telepsychology shall:

Reference (a)-(h)

Guidelines: Telepsychology

Minimum penalty: Reprimand; conditions may be attached

Maximum penalty: Revocation of license; Denial of license application

Fraud, Misrepresentation, or Deception***OAC 4732-17-01 (J) Violations of law***

(2) Use of fraud, misrepresentation, or deception. A psychologist or school psychologist shall not use fraud, misrepresentation, or deception in obtaining a psychology or school psychology license, in taking a psychology or school psychology licensing examination, in assisting another to obtain a psychology or school psychology license or to take a psychology or school psychology licensing examination, in billing clients or third-party payers, in providing psychological or school psychological services, in reporting the results of those services, or in conducting any other activity related to the practice of psychology or school psychology.

Guidelines: Fraud, misrepresentation, or deception

Minimum penalty: Active license suspension, with term dependent on circumstances.
Conditions may be attached.

Maximum penalty: Revocation of license; Denial of license application

Aiding Illegal Practice

Regulatory reference from 4732-17-01 (K) Aiding illegal practice

(1) Aiding unauthorized practice. A psychologist or school psychologist shall not aid or abet another person in misrepresenting his/her professional credentials or in illegally engaging in the practice of psychology or school psychology. Reference (2) through (4).

Guidelines: Aiding illegal practice

Minimum penalty: Active license suspension, with term dependent on circumstances.

Conditions may be attached

Maximum penalty: Revocation of license; denial of application for licensure

Violations of Order or Agreement with the Board

ORC 4732.17 (A) (17) Violating any adjudication order or consent agreement adopted by the board

Guidelines: Violation of adjudication order or consent agreement

Minimum penalty: License suspension, with active term dependent on circumstances; conditions may be attached

Maximum penalty: Revocation of license

Practicing on Expired or Retired License

ORC 4732.17 (A)

(14) Offering or rendering psychological services after a license issued under this chapter has expired due to a failure to timely register under section 4732.14 of the Revised Code or complete continuing education requirements;

(15) Offering or rendering psychological services after a license issued under this chapter has been placed in retired status pursuant to section 4732.142 of the Revised Code;

Guidelines: Practicing on Expired or Retired License

Minimum penalty: Reprimand or license suspension, with active term dependent on circumstances; conditions may be attached

Maximum penalty: Revocation of license

Applicability of These Guidelines to Applicants for Licensure

The penalties specified in categories above are generally tailored to apply to violations by licensees of the Board. When applicants for licensure are found to have committed like violations, the appropriate sanctions will be formulated in terms of either granting or denial of licensure, and should be proportionate to penalties imposed on licensees.

For instance, if a violation is such that a licensee might be temporarily restricted from practice through suspension, the appropriate response to an applicant for like violations might be denial of license application with conditions for reapplication/reconsideration.

Glossary of Terms

Disciplinary Actions—Formal Board actions against a license or application for licensure which shall only follow majority vote of the Board during a public meeting in the form of a consent agreement or post-hearing order. Such actions are public.

- ***Revocation***--Loss of Ohio license to practice psychology or school psychology. This public action prohibits the individual from practicing psychology in the State of Ohio. Unless otherwise specified in a Consent Agreement, the individual retains rights to apply to the Board for restoration of the license.
- ***Active Suspension***—Loss of license for a specified period of time and/or until conditions imposed by the Board are met, during which licensee is prohibited from practicing psychology, including the provision of supervision.
- ***Inactive Suspension***—Similar to the legal concept of “probation,” the licensee is placed under a specified period of sanction by the Board until specific conditions imposed by the Board are met. The licensee may continue to practice psychology during period of inactive suspension depending on terms and conditions imposed.
- ***Reprimand***—A public admonishment.
- ***Voluntary Surrender***—A licensee surrenders the license in lieu of further disciplinary proceedings. For legal purposes, such surrenders may be recorded as a revocation.
- ***Denial of Application for Licensure***—Determination by Board Order that an application fails to meet requirements specified under law and rules.
- ***Restoration***—A license placed under active suspension or revocation may be restored in accordance with ORC 4732.18 and by public action of the Board.

Conditions

The State Board of Psychology has a range of options available to impose upon a licensee or applicant to address concerns regarding practice with safety to the public. Unless specified in an order or consent agreement, all costs associated with such conditions are to be paid by the respondent. Details of all conditions shall be specified within the body of a Consent Agreement or Order of the Board, and as such shall be made available to the public. Such conditions include, but are not limited to:

- ***Practice Restrictions***—Limitations imposed by the Board upon the licensee's practice (e.g., populations served or specialty areas), time limited or permanent.
- ***Remedial CE/Course of Study***—The Board may impose completion of a specific or general tutorial, college-level course, or any other course of study, to address identified skill or knowledge deficits associated with a case, to address concerns that the individual can offer services with safety to the public.
- ***Practice monitor***—The Board may require a licensee to submit to monitoring of practice in any area(s) and/or with population(s) specified by the Board, by an Ohio licensed psychologist or school psychologist approved by the Board for such purposes. The licensee shall provide written release allowing for the monitor to divulge any information that the Board may request relative to public safety and psychological practice. The monitor shall furnish the Board with reports as ordered, addressing agreed upon concerns, limitations, skills, and progress. The licensee shall receive written authorization from each client to enable the monitor to review records, discuss cases, and to make direct contact with patients as necessary.
- ***Psychological Evaluation***—The Board may order a licensee or applicant to undergo evaluation by a Board-appointed psychologist or multidisciplinary team to assist the Board in determining whether the individual possesses the ability to function independently as a psychologist with safety to the public, and whatever additional information the Board deems relevant to the case. The subject of evaluation shall sign a release authorizing the Board to serve as the "client" and recipient of the evaluation, which shall be furnished to the Board in writing. Psychological evaluation shall be utilized when a violation raises questions about impaired judgment, risk of harming others via boundary violations, or the presence of substance use disorder and/or emotional or mental disorders. Such evaluations shall be considered by the Board as evidence of the need for any additional conditions on the license, including psychotherapy, or more active restrictions against the license.
- ***Psychotherapy***—The Board may order a term of individual psychotherapy with a licensed psychologist or other mental health professional approved by the Board after nomination of such by the licensee. The individual shall furnish written signed release authorizing the therapist to provide reports to the Board at specified intervals. The Board may terminate or continue the condition for psychotherapy upon written recommendation of the therapist and may order re-evaluation of psychological functioning prior to authorizing termination. Reports shall be utilized by the Board to assist in decision making regarding the individual's ability to provide services with safety to the public.

- **Psychiatric Evaluation**—The Board may order a licensee or applicant to undergo psychiatric examination by a Board-appointed physician to assist the Board in determining whether the individual possesses conditions which may impair the ability to function independently as a psychologist with safety to the public, and whatever additional information the Board deems relevant to the case. The subject of evaluation shall sign a release authorizing the Board to serve as the “client” and recipient of the evaluation., which shall be furnished to the Board in writing.
- **Psychiatric Treatment**--The Board may order psychiatric intervention with a licensed physician approved by the Board after nomination of such by the subject. The individual shall furnish written signed release authorizing the therapist to provide reports to the Board at specified intervals. The Board may terminate or continue the order for such treatment upon written recommendation of the therapist and may order re-evaluation of psychological functioning prior to authorizing termination. Reports shall be utilized by the Board to assist in decision making regarding the individual’s ability to provide services with safety to the public.
- **Toxicological Screens**—The Board may order a licensee/applicant to undergo screening for the presence alcohol or other psychoactive substances at intervals, times, and places specified by the Board. Signed release authorizing the Board to be provided results of such screenings shall be furnished by the licensee. The results of such screening shall be used by the Board in making determinations about the impairment of a licensee/applicant and the degree to which psychological services may be at risk of being provided without assurances of safety to the public.