DIGEST OF HB 1200 (Updated April 3, 2019 11:52 am - DI 104)

Citations Affected: IC 25-33.

Synopsis: Telepsychology. Allows a psychologist to use telepsychology. Requires the psychologist who uses telepsychology to ensure that confidential communications stored electronically cannot be recovered or accessed by unauthorized persons when the psychologist disposes of electronic equipment and data.

Effective: July 1, 2019.

Frizzell, Kirchhofer, Shackleford, Bacon
(SENATE SPONSORS — CHARBONNEAU, BECKER, BREAUX)

January 10, 2019, read first time and referred to Committee on Public Health.
January 22, 2019, amended, reported — Do Pass.
January 24, 2019, read second time, ordered engrossed. Engrossed.
January 28, 2019, read third time, passed. Yeas 97, nays 0.

SENATE ACTION
February 27, 2019, read first time and referred to Committee on Health and Provider Services.
April 4, 2019, amended, reported favorably — Do Pass.

EH 1200—LS 6883/DI 77
ENGROSSED

HOUSE BILL No. 1200

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 25-33-1-2, AS AMENDED BY P.L.2-2007, SECTION 344, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) As used in this article:

"Appraisal instrument" means:
(1) a career and occupational instrument;
(2) an adaptive behavioral and symptom screening checklist; or
(3) an inventory of interests and preferences;

that is administered for the purpose of counseling individuals to cope with or adapt to changing life situations or to situations that are due to problems in living. The term includes marital, relational, communicational, parent and child, family system assessment instruments, and employment counseling.

"Board" means the state psychology board.
"Person" means an individual, firm, partnership, association, or corporation.

"Practice of psychology" includes the following:
(1) Construction, administration, and interpretation of tests of
intellectual and cognitive abilities, aptitudes, skills, interests, attitudes, personality characteristics, perception, emotion, motivation, and opinion.

(2) Diagnosis and treatment of mental and behavioral disorders by a health service provider in psychology.

(3) Educational and vocational planning and guidance.

(4) Personnel selection and management.

(5) Arrangement of effective work and learning situations.

(6) Resolution of interpersonal and social conflicts.

(7) Techniques used in interviewing, counseling, psychotherapy, and behavior modification of individuals or groups.

(8) Supervision of psychological services.

(9) Teaching of any of the practices listed in this subsection.

(10) The planning and conduct of research on human behavior.

"Psychological services" means acts or behaviors coming within the purview of the practice of psychology (as defined in this article).

"Psychologist" means a person who is licensed under this chapter to engage in the practice of psychology.

"Recognized postsecondary educational institution" means any college, university, school, or similar educational establishment approved by the board for the purposes of this article.

"Agency" means the Indiana professional licensing agency under IC 25-1-5.

"Approved organization" means any organization or individual approved by the board.

"Continuing education course" means an orderly process of instruction that is designed to directly enhance the practicing psychologist's knowledge and skill in providing relevant psychological services, and that is approved by an approved organization.

(b) Nothing in this article shall be construed as permitting individuals licensed as psychologists to engage in any manner in the practice of medicine or optometry (as defined in the laws of this state).

(c) Nothing in this article shall be construed as permitting a psychologist to prescribe medication, unless a psychologist is participating in a federal government sponsored training or treatment program. An individual licensed as a psychologist may not prescribe medication unless the individual is a practitioner (as defined under IC 16-42-19-5).

SECTION 2. IC 25-33-3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 3. Telepsychology

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Sec. 1. Nothing in this chapter authorizes a psychologist to engage in the practice of psychology with a person who is domiciled in a jurisdiction other than Indiana.

Sec. 2. The definitions in IC 25-33-1-2 apply to this chapter.

Sec. 3. As used in this chapter, "telepsychology" means the practice of psychology using electronic communications and information technology, including the following means:

   (1) Videoconferencing.
   (2) Telephone.
   (3) Internet based communications.

Sec. 4. Subject to section 5 of this chapter, a psychologist may use telepsychology to treat an individual.

Sec. 5. Before using telepsychology, the psychologist must do the following:

   (1) Establish and maintain competency in the use of telepsychology, including through continuing education, consultation, or other procedures, in conformance with prevailing standards of scientific and professional knowledge.
   (2) Establish and maintain competency in the appropriate use of the information technologies used in the practice of telepsychology.
   (3) Assess if the client's primary problem and apparent condition are consistent with the use of telepsychology to the client's benefit.
   (4) Determine if the client has sufficient knowledge and skills to use the technology involved in telepsychology or if the client can use a personal aid or assistive device to benefit from the service.
   (5) Refrain from providing telepsychology services to any client when the outcome of the psychological analysis is inconsistent with the delivery of telepsychology services, including clinical or technological issues.
   (6) At each contact with the client, make reasonable efforts to verify the identity of the client.
   (7) Establish an alternative means of contacting the client.
   (8) Provide the client with an alternative means of contacting the psychologist.
   (9) Establish a written agreement concerning the client's access to face-to-face emergency services in the client's geographical area, including instances where the client is experiencing a suicidal or homicidal crisis.
   (10) When feasible, use secure communications with clients,
which may include encrypted text messages via electronic
mail or secure Internet web sites.

(11) Obtain and document consent for the use of nonsecure
communications.

(12) Obtain the written informed consent of the client, in
language that is likely to be understood and is consistent with
accepted professional and legal requirements, concerning the
following:

(A) The limitations and innovative nature of using
telepsychology in providing psychological services.
(B) Potential risks to confidentiality of information due to
the use of telepsychology.
(C) Potential risks of sudden and unpredictable disruption
of telepsychology services and how an alternative means of
reestablishing an electronic or other connection will be
used under those circumstances.
(D) How and when the psychologist will respond to routine
electronic messages.
(E) Under what circumstances the psychologist and client
will use an alternative means of communication under
emergency circumstances.
(F) Who else may have access to communications between
the client and the psychologist.
(G) Specific methods for ensuring that a client's electronic
communications are directed only to the psychologist.

Sec. 6. The psychologist who uses telepsychology shall ensure
that confidential communications stored electronically cannot be
recovered or accessed by unauthorized persons when the
psychologist disposes of electronic equipment and data.

Sec. 7. The board may adopt rules under IC 4-22-2 to
administer this chapter.
COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1200, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 6, delete "endorsed" and insert "seeking endorsement".
Page 4, delete lines 36 through 37 and insert "any activities that may be identified as practicing psychology independently."

and when so amended that said bill do pass.

(Reference is to HB 1200 as introduced.)

KIRCHHOFER

Committee Vote: yeas 13, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1200, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 1, delete "or a".
Page 3, line 2, delete "supervisee".
Page 3, delete lines 5 through 9.
Page 3, line 10, delete "5." and insert "3.".
Page 3, line 11, delete "psychology, including psychological supervision," and insert "psychology".
Page 3, delete line 16.
Page 3, line 17, delete "(4)" and insert "(3)".
Page 3, line 18, delete "6." and insert "4.".
Page 3, line 18, delete "7" and insert "5".
Page 3, line 18, delete "and a".
Page 3, line 19, delete "supervisee".
Page 3, line 20, delete "7. (a)" and insert "5.".
Page 3, line 20, delete "or".
Page 3, delete line 21.
Page 3, line 22, delete "provide,"
Page 4, line 3, delete "psychologist or supervisee." and insert
"psychologist.".
Page 4, line 25, delete "or supervisee".
Page 4, line 27, delete "or".
Page 4, line 28, delete "supervisee".
Page 4, line 31, delete "psychologist or supervisee." and insert
"psychologist.".
Page 4, line 33, delete "psychologist or" and insert "psychologist.".
Page 4, delete lines 34 through 42.
Page 5, delete line 1.
Page 5, line 2, delete "8." and insert "6.".
Page 5, line 2, delete "or supervisor".
Page 5, line 5, delete "or supervisor".
Page 5, after line 6, begin a new paragraph and insert:
"Sec. 7. The board may adopt rules under IC 4-22-2 to
administer this chapter.".
and when so amended that said bill do pass.

(Reference is to HB 1200 as printed January 22, 2019.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 7, Nays 0.