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# **PSYCHOLOGISTS ACT [RSBC 1996] CHAPTER 381**

*[Updated to October 31, 1997]*

## ***Contents***

### *Section*

- [1 Definitions](#)
- [2 College of Psychologists of British Columbia continued](#)
- [3 Membership](#)
- [4 Duties and objects of the college](#)
- [5 Board](#)
- [6 Management by board](#)
- [7 Bylaws](#)
- [8 Officers](#)
- [9 Rules of the board](#)
- [10 Annual report](#)
- [11 Inspectors](#)
- [12 Powers and duties of inspectors](#)
- [13 Search and seizure under court order](#)
- [14 Detention of things seized](#)
- [15 Prohibition against obstructing inspection or search](#)
- [16 Extraordinary action to protect public](#)
- [17 Disciplinary action](#)
- [18 Effect of suspension or cancellation](#)
- [19 Conditions](#)
- [20 Notice of hearing](#)
- [21 Costs](#)
- [22 Witnesses](#)
- [23 Appeal](#)
- [24 Immunity](#)
- [25 Application of \*Medical Practitioners Act\*](#)
- [26 Prohibition](#)
- [27 Injunction](#)

[28 Exemptions](#)

[29 If conflict this Act prevails](#)

[30 Offence Act](#)

## Definitions

1 In this Act:

"**board**" means the board of the college appointed or elected under section 5;

"**college**" means the College of Psychologists of British Columbia;

"**inspector**" means an inspector appointed under section 11;

"**practice of psychology**" includes

(a) the provision to individuals, groups, organizations or the public of any service involving the application of principles, methods and procedures of understanding, predicting and influencing behaviour, including the principles of learning, perception, motivation, thinking, emotion and interpersonal relationships,

(b) the application of methods and procedures of interviewing, counselling, psychotherapy, behaviour therapy, behaviour modification, hypnosis, research, or

(c) the construction, administration and interpretation of tests of mental abilities, aptitudes, interests, opinions, attitudes, emotions, personality characteristics, motivations and psychophysiological characteristics and the assessment or diagnosis of behavioural, emotional and mental disorder

for a fee or reward, monetary or otherwise;

"**register**" means the register kept by the registrar under this Act;

"**registered psychologist**" means a person who is registered under this Act as a psychologist;

"**registrar**" means the registrar of the board;

"**registration**" means the entry in the register of the name of a person registered under this Act as a psychologist;

"**rules**" means the rules made by the board under this Act.

## College of Psychologists of British Columbia continued

2 The College of Psychologists of British Columbia, a society that was incorporated under the *Society Act*, is continued as a corporation with the power and capacity provided under this Act, the *Society Act* and the constitution of the college made under that Act, except as repealed or amended by or under this Act.

## Membership

3 (1) The membership of the college consists of those persons registered under this Act and the rules and

bylaws of the college passed under this Act.

(2) The persons appointed to the board under section 5 are members during the term of their appointment.

### **Duties and objects of the college**

**4** (1) It is the duty of the college at all times

(a) to serve and protect the public, and

(b) to exercise its powers and discharge its responsibilities under all enactments in the public interest.

(2) The college has the following objects:

(a) to superintend the practice of psychology by registered psychologists;

(b) to govern registered psychologists according to this Act, the bylaws and the rules;

(c) to establish, monitor and enforce standards of education and qualifications for registration of registered psychologists;

(d) to establish, monitor and enforce standards of practice to enhance the quality of practice and reduce incompetent, impaired or unethical practice amongst registered psychologists;

(e) to establish and maintain a continuing competency program to promote high practice standards amongst registered psychologists;

(f) to establish a patient relations program to seek to prevent professional misconduct of a sexual nature;

(g) to establish, monitor and enforce standards of professional ethics amongst registered psychologists;

(h) to require registered psychologists to provide an individual with access to the individual's health care records in appropriate circumstances;

(i) to inform individuals of their rights under this Act, the rules and the *Freedom of Information and Protection of Privacy Act*;

(j) to administer the affairs of the college and perform other duties through the exercise of the powers conferred by this Act, the bylaws or the rules.

### **Board**

**5** (1) The board is continued consisting of

(a) 6 registered psychologists elected under the bylaws by the members of the college, and

(b) 3 persons appointed by the minister.

(2) A vacancy on the board caused by the death, resignation or incapacity of a member may be filled by the appointment or election of a person to the board in accordance with the provisions of this section under which the vacating member was appointed or elected.

(3) A person appointed or elected to fill a vacancy on the board under subsection (2) holds office for the remainder of the term of the vacating member.

(4) The board may meet at those times and as often as it considers necessary but the board must meet at least once in each year.

## **Management by board**

**6** (1) Except in respect of a matter reserved by this Act or the bylaws for an ordinary or special resolution of the members, the affairs of the college must be managed by the board.

(2) Subject to the bylaws, the board may delegate its functions and powers.

## **Bylaws**

**7** (1) The college may make bylaws, not inconsistent with this Act, respecting the following:

(a) the registration and annual renewal of registration of psychologists;

(b) the qualifications and standards required for registration of psychologists;

(c) the subjects of study, examinations and experience of persons applying to be registered as psychologists;

(d) the government, discipline and ethics of registered psychologists, including the adoption of a code of ethics binding on all registered psychologists and for that purpose the college may adopt the code of ethics of any other psychological college;

(e) the membership of the college, including different classes of membership and the division of the membership into branches, the qualifications for membership or membership of a class, the registration of, and issue of registration certificates to, persons admitted to membership;

(f) the nonrenewal, suspension or revocation of registration of a psychologist who fails to renew his or her registration when required to do so by this Act or the rules, or the nonrenewal, suspension or revocation of the registration of a psychologist, or the reprimand or censure of a psychologist found by the board to be guilty of misconduct or having displayed such incompetence as to render desirable, in the public interest, the suspension, revocation or nonrenewal of his or her registration and the board may define "misconduct" and "incompetence" for the purpose of those bylaws;

(g) other requirements necessary for carrying out this Act.

(2) The power of the college to amend its constitution or bylaws or to approve the accounts of the college is reserved for an ordinary or special meeting of the members but a bylaw or amendment to a bylaw has no effect until approved by the Lieutenant Governor in Council.

## **Officers**

**8** (1) The board may, under the bylaws, elect from among its members those officers that it considers desirable and each executive officer of the board holds office at the pleasure of the board, or until he or she ceases to be a member of the board.

(2) The board must appoint a registrar who

(a) holds office at the pleasure of the board, and

(b) may be paid a salary for his or her services as determined by the board.

(3) A person must not hold an executive office on the board unless the person is a registered psychologist.

## **Rules of the board**

**9** (1) Subject to the bylaws, the board may make rules not inconsistent with this Act respecting the following:

(a) the officers and directors of the college and their election, either directly or indirectly, and either by the whole of the membership or by, and as representative of, the several branches into which the college may be divided, the qualification of officers and directors, their functions, and their tenure of and removal from office;

(b) ordinary and special general meetings of the members of the college, and the voting and procedure at those meetings;

(c) board meetings and voting and procedure at board meetings;

(d) the management of the business and property of the college;

(e) the maintenance of a register of psychologists;

(f) the holding, conducting and advertising of examinations for registration of psychologists;

(g) fees for examinations, registration and renewal of registration of psychologists;

(h) the amount of the annual dues payable by members of the college;

(i) fees or funds collected by the board;

(j) all other purposes reasonably necessary for the management and aims of the college.

(2) A copy of a rule proposed to be made under this section must be delivered to all registered psychologists at least 90 days before the day the rule is intended to come into force.

(3) A rule made under this section that is not ratified at the earliest general or special meeting of the members ceases to have effect from and after the date of the general or special meeting.

(4) Nothing in subsection (3) affects the validity of a rule or an act done under the rule before the date of the special or general meeting.

## **Annual report**

**10** The board must submit an annual report respecting the college, including information that the Lieutenant Governor in Council may prescribe, to the minister not later than 120 days after the end of the fiscal year for the college.

## Inspectors

**11** The board may appoint inspectors for the college.

### Powers and duties of inspectors

**12** (1) During regular business hours, an inspector may investigate, inquire into, inspect, observe or examine one or more of the following without a court order:

- (a) the premises, the equipment and the materials used by a registered psychologist to practise psychology;
- (b) the records of the registered psychologist relating to the registered psychologist's practice of psychology and may copy those records;
- (c) the practice of psychology performed by or under the supervision of the registered psychologist.

(2) The board may direct an inspector to act under subsection (1).

(3) If an inspector acts under this section as a consequence of a direction given under subsection (2), the inspector must report the results of those actions in writing to the board.

### Search and seizure under court order

**13** (1) A person authorized by the board may apply to the Supreme Court for an order that authorizes a person named in the order

- (a) to enter the premises or land of the person named in the order at any reasonable time and conduct an inspection, examination or analysis,
- (b) to require the production of any record, property, assets or things and to inspect, examine or analyze them, and
- (c) on giving a receipt, to seize and remove any record, property, assets or things inspected, examined or analyzed under paragraph (a) or (b) for further inspection, examination or analysis.

(2) Unless the court otherwise directs, an application under subsection (1) may be made without notice to any person and may be heard in private.

(3) On application under subsection (1), the court may make an order under this section if satisfied on oath that there are reasonable grounds for believing that evidence may be found

- (a) that a person who is not a registered psychologist has contravened this Act, the bylaws, or the rules, or
- (b) that a person who is a registered psychologist
  - (i) has contravened this Act, the bylaws, or the rules,
  - (ii) has failed to comply with a limit or condition imposed under this Act, the bylaws, or the rules,

- (iii) has acted in a manner that constitutes professional misconduct,
  - (iv) is not competent to practise psychology, or
  - (v) is suffering from a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs the person's ability to practise psychology.
- (4) In an order under this section, the court
- (a) must identify the premises or land to be entered and must generally describe any thing to be searched for and examined, audited or seized,
  - (b) may include any limitations or conditions the court considers proper including the time of entry, the disposition of things seized and the access by any person to the things seized, and
  - (c) may direct that section 14 does not apply to a thing specified in the order
- (i) if all limitations and conditions included under paragraph (b) are met, and
  - (ii) unless, within 21 days of the seizure of the thing, a person who owned or controlled the thing at the time of the seizure requests by registered mail addressed to the board that section 14 apply to the thing seized.
- (5) A person who, while conducting or attempting to conduct an entry or search under this section, finds anything not described in the order that the person believes on reasonable grounds will provide evidence in respect of a contravention of this Act, the bylaws, or the rules may seize and remove that thing.

## **Detention of things seized**

- 14** (1) For the purposes of subsection (2), the person who makes a seizure under section 13 must report the seizure as soon as practicable to a judge of the Supreme Court, who must be the judge who issued the order under which the seizure was made unless this is not practicable.
- (2) On receiving a report under subsection (1), the judge must
- (a) order the thing that was seized returned to its owner or other person entitled to it unless satisfied that an order under paragraph (b) should be made, or
  - (b) order the thing detained if satisfied that the detention is required for the purposes of this Act.
- (3) An inspector may make one or more copies of any record detained under subsection (2).
- (4) A document purporting to be certified by a representative of the board to be a true copy made under the authority of subsection (3) is evidence of the nature and content of the original document.
- (5) Subject to an order under section 13 (4) (b), the person from whom any thing is seized under this section or the owner of the thing, if he or she is a different person, is entitled to inspect the thing at any reasonable time and, in the case of a record, to obtain one copy of the record at the expense of the board.
- (6) A record must not be detained under this section for a period longer than 3 months from the time of its seizure unless, before the expiration of the period, either

- (a) the person from whom it was seized agrees to its continued detention, or
- (b) the Supreme Court, on application and after being satisfied that its continued detention is justified, orders its continued detention for a specified period of time.

### **Prohibition against obstructing inspection or search**

- 15** (1) A person must not obstruct an inspector in the lawful performance of duties or the lawful exercise of powers under this Act, the bylaws or the rules.
- (2) A person must not obstruct a person acting under section 13 or 14 or under an order made under those sections.

### **Extraordinary action to protect public**

- 16** (1) If the board considers the action necessary to protect the public during the investigation of a registered psychologist or pending a hearing of the board, it may
- (a) set limits or conditions on the practice of psychology by the registered psychologist, or
  - (b) suspend the registration of the registered psychologist.
- (2) If the board acts under subsection (1), it must notify the registered psychologist in writing of its decision, of the reasons for the decision and of the registered psychologist's right to appeal that decision to the Supreme Court.
- (3) A decision under subsection (1) is not effective until the earlier of
- (a) the time the registered psychologist receives the notice under subsection (2), and
  - (b) 3 days after the notice is mailed to the registered psychologist at the last address for the registered psychologist recorded in the register of the college.
- (4) If the board determines that action taken under subsection (1) is no longer necessary to protect the public, it must cancel the limits, conditions or suspension and must notify the registered psychologist in writing of the cancellation as soon as possible.
- (5) A registered psychologist against whom action has been taken under subsection (1) may appeal the decision to the Supreme Court and, for those purposes, the provisions of section 23 respecting an appeal from a decision of the board apply to an appeal under this section.

### **Disciplinary action**

- 17** (1) The board may, on its own motion or on receiving a complaint,
- (a) hear and determine the matter under subsections (3) and (4), or
  - (b) establish a panel composed of 3 or more of its members and direct that the panel hear and determine the matter under subsections (3) and (4).
- (2) If a panel is established under subsection (1) to hear and determine a matter, references in subsections

(3), (4) and (5) and sections 19 to 24 to the board are deemed to be references to the panel for the purposes of the matter.

(3) If a registered psychologist or a person applying to be a registered psychologist fails to authorize a criminal record check under the *Criminal Records Review Act* or an adjudicator under that Act has determined that a registered psychologist or applicant presents a risk of physical or sexual abuse to children and that determination has not been overturned by an appeal panel under that Act, the board must

(a) take the failure or the determination into account when deciding whether to register the applicant or whether to set limits or conditions on the practice of psychology by the applicant, or

(b) investigate the matter and decide whether to set limits or conditions on the practice of the registered psychologist or suspend or cancel the registration of the registered psychologist.

(4) After a hearing, the board may determine that a registered psychologist, former registered psychologist or person applying to be a registered psychologist

(a) does not qualify to be a registered psychologist,

(b) suffers from a physical ailment, emotional disturbance or an addiction to alcohol or drugs that impairs the person's ability to practise psychology,

(c) has professionally misconducted himself or herself,

(d) has incompetently carried out professional duties,

(e) has contravened this Act or the bylaws or code of ethics of the college, or

(f) has contravened an enactment in the course of the practice of psychology.

(5) If the board has made one or more determinations under subsection (4), it may do one or more of the following:

(a) reprimand or censure the person;

(b) advise the person how to act in similar circumstances if they arise in the future;

(c) fine the person in an amount not exceeding \$2 000;

(d) take action under section 19;

(e) suspend the person from practice for a term the board considers appropriate;

(f) cancel the registration of the person under this Act;

(g) bar the person from registration under this Act for a period the board considers appropriate.

(6) If a registered psychologist fails to pay a fee imposed under this Act within 60 days of the date of its imposition, the registered psychologist is suspended from practice.

### **Effect of suspension or cancellation**

**18** While the registration of a registered psychologist is suspended or cancelled, all his or her rights and privileges as a registered psychologist under this Act, the bylaws or the rules cease.

## **Conditions**

**19** If a person or registration is suspended under section 17, the board may

- (a) impose conditions on the lifting of the suspension,
- (b) direct that the lifting of the suspension will occur on
  - (i) a date specified in the order, or
  - (ii) the date the board determines that the person has complied with the conditions imposed under paragraph (a), and
- (c) impose on the practice of the person conditions that apply after the lifting of the suspension.

## **Notice of hearing**

**20** (1) The board, before commencing a hearing under section 17, must give to a person affected by the hearing a notice in writing, served personally or by registered mail at least 30 days before the date of the hearing, stating the date, time and location of the hearing, and the nature of the matter or complaint to be considered.

(2) A person receiving notice of a hearing is entitled to be represented by counsel and to give evidence and have evidence tendered on his or her behalf.

(3) Testimony of witnesses must be taken under oath, which the presiding member of the board is authorized to administer.

(4) If a person who has received notice under subsection (1) does not attend the hearing, the board, on proof of service on the person of the notice, may proceed with the subject matter of the inquiry in his or her absence and may make a decision or order without further notice.

(5) The board must, within 30 days after the hearing, send by registered mail written notice from the board of the decision or finding of the board to a person entitled to notice under subsection (1).

## **Costs**

**21** (1) At a hearing of the board under section 17, the board may direct all costs of, and incidental to, the hearing or any portion of it to be paid by the board or the person affected by the hearing but such an order must not be made against a person unless as a result of the hearing the registration of that person as a psychologist has been suspended, revoked or cancelled, or unless the person has been reprimanded or censured.

(2) The costs referred to in subsection (1) must be taxed by the district registrar of the Supreme Court of the judicial district in which the hearing takes place on the scale provided for costs as between solicitor and client in the Supreme Court Rules and, on the district registrar's certificate, execution may issue in the same manner as on an order of the court.

## Witnesses

- 22** (1) The board or a member of the board may issue a subpoena for the attendance of a witness at a hearing and for the production of records by the witness at the hearing.
- (2) On the written request of a person against whom a proceeding under section 17 is brought, a member of the board must issue a subpoena under subsection (1).
- (3) A witness who fails to attend or produce records as required in a subpoena is, on application by the college to the Supreme Court, liable to be committed for contempt as if the witness were in contravention of an order of that court.
- (4) The testimony of witnesses must be taken under oath which may be administered by a member of the board.

## Appeal

- 23** (1) A person who has been refused examination or registration or feels aggrieved or adversely affected by an order or decision of the board may appeal to the Supreme Court at any time within 30 days after the date of the refusal or order.
- (2) The appellant must
- (a) file a notice of appeal with the registrar of the Supreme Court, and
- (b) serve a copy of the notice of appeal on a member of the board within the time limited under subsection (1).
- (3) The board, on the request of the appellant, must provide to the appellant certified copies of all records on which the board acted, on payment for those copies at the same rate as would be charged for the same service by an official stenographer of the Supreme Court.
- (4) The appeal must be
- (a) a new hearing if there is no transcript, or
- (b) a review of the transcript and proceedings if there is a transcript; but the court may, if it considers it necessary in the interests of justice, conduct a new hearing or allow the introduction of new evidence.
- (5) The board is entitled to be a party on the hearing of the appeal and may take part in the proceedings.
- (6) The Supreme Court Rules apply with respect to the procedure on an appeal under this section and the court may give those directions that it considers necessary to ensure the proper hearing of the appeal.
- (7) On the hearing of an appeal under this section, the Supreme Court may
- (a) make an order confirming, reversing or varying the decision of the board,
- (b) refer the matter back to the board, with or without directions, or
- (c) make any other order that it considers proper in the circumstances.

## Immunity

**24** An action does not lie against the board or its members for proceedings taken or enforced or attempted under this Act or the rules of the board, or for anything done under this Act or the rules, unless it is proved that the proceedings were taken or things were done in bad faith.

## Application of *Medical Practitioners Act*

**25** Nothing in this Act entitles a person to practise medicine within the meaning of section 81 of the *Medical Practitioners Act* but, despite that section, a registered psychologist is entitled to carry on the practice of psychology without supervision by a medical practitioner.

## Prohibition

**26** (1) A person must not engage in or carry on the practice of psychology and represent himself or herself as a psychologist, unless the person is registered under this Act.

(2) A person must not use, assume, or employ, or advertise or hold himself or herself out under the title of a "registered psychologist" or "psychologist" or any affix, prefix or abbreviation of the title as an occupational designation relating to the practice of psychology, unless the person is registered under this Act.

(3) A person must not obtain or attempt to obtain registration under this Act by fraud or misrepresentation.

(4) A person who contravenes subsection (1), (2) or (3) commits an offence.

(5) A person represents himself or herself as a psychologist if the person, for a fee or reward, monetary or otherwise, acts, represents, holds himself or herself out or advertises as a psychologist, and uses a title or description or words incorporating the word "psychology", "psychological" or "psychologist", or other terms implying training, experience or expertise as a psychologist.

## Injunction

**27** In the event of a continuing breach or threatened breach of this Act or the rules by a person, the board may apply to the Supreme Court, in a proceeding brought for the purpose, for an injunction to restrain the person from continuing or committing the breach and, pending the trial of the proceeding, the court, on being satisfied that there is reason to believe that the person is continuing to commit or is likely to commit a breach of this Act or the rules, may grant an interim injunction.

## Exemptions

**28** (1) Nothing in this Act prevents a person

(a) who is authorized to practise a profession under an Act from practising that profession,

(a.1) from practising a profession in the course of the person's employment with a board or council under the *Health Authorities Act* or with a community health services society, designated by the minister for the purposes of this paragraph, incorporated under the *Society Act*,

(b) from teaching, lecturing or engaging in research as a psychologist, if those activities are carried out by reason of, and in the course of, duties under an academic appointment or program in a university as defined by the *University Act*, or

(c) from acting in the course of employment by a Provincial, federal or municipal government or government agency, by a francophone education authority as defined in the *School Act* or by a board of school trustees constituted under the *School Act*, if qualifications in psychology are a condition of such employment.

(2) Nothing in this Act prevents

(a) a person to whom subsection (1) (b) or (c) applies from using the title "psychologist" or an affix, prefix or abbreviation of the title, or

(b) a society whose members are persons to whom subsection (1) (b) or (c) applies from using a title or designation incorporating the word "psychology", "psychological" or "psychologist".

### **If conflict this Act prevails**

**29** If there is a conflict between this Act, the rules and the bylaws passed under this Act and the *Society Act*, this Act and the rules and the bylaws under this Act prevail.

### **Offence Act**

**30** Section 5 of the *Offence Act* does not apply to this Act, the bylaws or the rules made under this Act.

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[ [STATUTES HOME PAGE](#) ]

[ [Full Listing](#) | [A](#) | [B](#) | [C](#) | [D](#) | [E](#) | [F](#) | [G](#) | [H](#) | [I](#) | [J](#) | [L](#) | [M](#) | [N](#) | [O](#) | [P](#) | [Q](#) | [R](#) | [S](#) | [T](#) | [U](#) | [V](#) | [W](#) | [Y](#) ]

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