

The Ohio Psychology Licensing Law: A Case Study in the Professionalization of Psychology

David A. Rodgers, Ph.D., Cleveland Clinic Foundation

[Printable format](#)

[NOTE OF EXPLANATION: This manuscript was written in the mid 1970's, as I began to realize that the detailed history would be lost if it were not written down. I had thought of preparing it for a chapter in a book on professional psychology, that Herb Dörken was editing, and revised it slightly for that purpose. It was too detailed for that purpose, though, so was set aside. The two versions ultimately got filed in a large pile of papers with nowhere to go. I discovered them again, in 2010, in looking for some material for the OPA 60th Anniversary Committee. What is presented here is essentially the original manuscript, after the two versions were scanned, converted to editable text, reconciled, and subjected to minor editing changes. In reconciling the two versions, I gave preference to the less refined, no doubt more politically incorrect, one that named more names and was more candid in describing events. If others feel this account of events is incorrect or incomplete, then they should provide the corrections or additions as they understand them. DAR]

What follows is a first person account of the passage of the Ohio State Licensing Law for psychologists. It is written in first person both because I was heavily involved in securing the passage of this law and because any account must inevitably be incomplete, somewhat non-objective, from one perspective rather than from all perspectives, neglectful of some critically important inputs, and exaggerating of other inputs that may seem more important to one person than to others. The first person account will hopefully be a constant reminder that there is personal bias and personal distortion present. The process was a group effort, and many people, both psychologists and others, deserve major credit for its success. Not all of them are named here, either because their contributions were more circumscribed or unknown to me or because my memory is faulty or myopic. The full contributions of those named are also grossly understated. My intent is not to give credit, although much is due, but to record a small bit of history of the development of professional psychology.

For the purposes of this paper, hopefully, the personal distortions are of minor importance, because it is intended as an illustration of the complexity and some of the procedures involved in professionalizing psychology through legislative action. It is not intended as a model of "how to do things," because each legislative situation is unique. Psychologists in each of the states with legislation on the books could write similar papers about their own experiences, and each of these would be relevant and illustrative of one phase or another of the profession-public interface as defined by statute law. If Ohio's experience has some claims to uniqueness, it is because we came late in the legislative process (the 46th state to secure legal recognition and regulation of psychology) and had the benefit of the experience of previous states to draw from, and because

the Ohio law has some unique features which warrant the attention of other states because they both significantly influenced the legislative process and will significantly influence the nature of the profession in Ohio (and perhaps elsewhere).

Ohio psychologists had their first bid for legal regulation introduced into the state legislature in 1959. Bills were subsequently introduced in each legislative session until our act was passed in 1972 — a span of 14 years and 7 different bills. I first became directly involved with the Ohio situation in 1969, having arrived in Cleveland in 1966. I had come from California, where I had been somewhat involved with the legislative history there. Briefly, the historical situation in Ohio was that medicine had systematically opposed the licensing bills that the Ohio Psychological Association (OPA) had been proposing, and had succeeded in blocking passage of several previous bills. The primary concern in 1969, however, was with the school psychologists, who had blocked passage of an OPA bill in 1967-68. The Ohio School Psychology Association (OSPA), a vigorous and politically aware group representing predominantly Master's level school psychologists who were (and are) well-trained and well-respected in their own field, certified by the State to deliver psychological services in the school but not in private practice, favored Master's level licensing and opposed the unilateral Doctoral licensing that was recommended (Committee on Legislation, 1967) by the American Psychological Association (APA).

OPA and OSPA had been trying to work together to develop a bill which both groups could support. OPA had predominantly an academic tradition, was based in Columbus with a tradition of rather strong influence from Ohio State University, had succeeded in the past in alienating school psychologists, but was the dominant organization for psychologists in the state. It deserved to be and was the spokesgroup for Ohio psychology. Its membership numbered about 550.

The Cleveland area had the strongest local psychology groups. The two most involved in the licensing debates were the Cleveland Psychological Association (CPA), with a little over 200 members representing broadly all fields of psychology, and the Cleveland Academy of Consulting Psychologists (CACP), representing a vigorous, professionally oriented, predominantly private practice core of 30 to 40 "elite" professionals. All CACP members were also members of CPA and of OPA. There was an active chapter of school psychologists in Cleveland, the Cleveland School Psychology Association (CSPA), although from my perspective that chapter did not figure heavily in the political maneuvering, most of this maneuvering being directly with OSPA or through CSPA's members in CPA.

Many school psychologists were members of CPA, as were many academically oriented and "non-professional" psychologists. In the 1968-69 and 1969-70 years, though, professionally oriented psychologists held the predominance of offices and board positions. CPA was the primary forum for consideration of legislative matters in Cleveland, and could be characterized as essentially representing APA policy, albeit with some dissenters. OPA, at the time, was largely under the influence of downstate psychologists, in its officer and board positions. To some

degree, it represented a power polarity with the Cleveland area, even though the OPA membership base in Cleveland was larger than in any other state region.

Legislatively, Ohio is on a biennial calendar. The 1969-70 biennium began with Republican control in both houses and a Republican governor. Having lost passage of a bill in the 1967-68 legislature, largely because of opposition from school psychology, OPA spent the first portion of the 1969 legislative session trying to work out a compromise bill that OPA and OSPA could jointly sponsor. In Cleveland, we began to fear excessive compromise with APA principles. My reading of the situation at the time was that the OPA Board of Trustees was extremely hungry for a bill, had faced agonizing frustration in the past, had fought long and hard and exhaustingly, was not prepared to take “any bill at any price”, but was dangerously close to feeling the temptations of such a relaxing reflex. Time was running in the legislative session and a bill was worked out that the OPA Board and the OSPA Board agreed on. When this bill was reviewed in Cleveland, we felt it represented too much of a compromise, refused to endorse it and urged our OPA Board to delay endorsement or introduction until it could be reviewed further. We were talking about delay in terms of weeks rather than months at this point, and both tempers and respect began to wear thin between Columbus (OPA headquarters) and Cleveland, even though there was certainly a leaning-over-backwards at both locations to try to accommodate the concerns of the other group.

In the midst of this intra-organizational effort at conciliation, OSPA unilaterally had the compromise bill introduced into the state legislature, by a very strong Democratic senator, Ocasek, who was in effect the patron of educators and school personnel in Ohio. It was an astute OSPA political move in the short run, because OPA was clearly divided, the bill had the support of the OPA Board, and most of the political contacts with the State Legislature were through the OPA Board rather than through the Cleveland associations. The bill called for a separate, Master’s level, license for school psychology. The school psychologists thought that it adequately represented their interests, a position that they had not been able to achieve in previous interactions with OPA. The bill’s sponsor, Ocasek, was a sufficiently powerful figure in the legislature that the bill began to move quickly.

In Cleveland, we faced a critical decision: should we give into OPA Board judgment and throw our weight behind the bill? Should we oppose our own OPA officers and the school psychologists and try to kill the bill? Should we try to obtain revision of the bill to suit our interests? The decision was first to try to revise the bill. Aside from being a generally weak bill that tried to alienate no one, and as a consequence failed to protect the profession of psychology adequately, the bill contained two features that several of us considered disastrous. One was that school psychology was identified as a discipline entirely separate from the rest of psychology, such that all school psychologists would obtain a school psychology license rather than a general psychology license. This would thus fractionate the field of psychology and eliminate the possibility of a truly generic license at the doctoral level. We suspected that the school

psychologists themselves might be persuaded to consider a dual level license within their own field, a Master's level school license and a Doctoral level general license that could open up a broader area of practice to the Doctoral level school psychologist than would be possible with a more narrowly defined specialty license. It would also preserve unity for the field of psychology as a whole with the possibility of a truly general license at the Doctoral level. Without a generic license, each psychology specialty could be forced to operate within its own restricted box, with limited potential for growth or change, at a time when professional psychology was ill defined and had just begun to develop.

The second concern was that the definition of school psychology was sufficiently non-specific that the school psychology license would probably become a "second-class but general psychology" license, at the Master's level. According to the bill, "The practice of school psychology means, psycho-educational assessment, remediation of learning problems, and consulting with teachers, parents, and guardians regarding school or school-related problems. It does not include the practice of "psychotherapy." Loosely interpreted, and all such statues are ultimately loosely interpreted, either by state boards for political reasons or by the courts if court cases are brought, the above wording allows almost any psychological activity to be rationalized as "remediation of learning problems." For example, schizophrenia inhibits learning, so treatment of schizophrenia would be appropriate remediation of learning problems. Denial of the right to practice psychotherapy would not be overly inhibiting to someone desiring to circumvent the restrictive intent of that wording. "Psychotherapy" is an ill-defined activity that could not be differentiated legally by the word alone from "counseling," "advising," "discussing," et cetera. Indeed, psychologists in Ohio were at that time openly practicing "psychotherapy" in direct violation of the Ohio Medical Practices Act, which listed it as a restricted medical practice. The proposed wording could thus have been a loophole for almost any kind of psychological practice.

We suspected that the school psychologists would not care for a second-class label but would eventually expand their practice to essentially unrestricted status. We were not at all sure that a satisfactory redefinition of school psychology could be written in legislative language that would both allow appropriate practice of the subspecialty and prevent broadening of that practice to the whole field of psychology. Few of us cared for, and many adamantly opposed, any Master's level license, but there was no realistic chance of eliminating it from this particular bill. We initiated discussions with the OSPA leadership and continued to urge delay by our own OPA Board.

We did not make progress rapidly enough to cope with the legislative process. Psychologists from Cleveland drove to Columbus to testify against the bill at the legislative hearings. For many Cleveland psychologists, this was their first contact with the State Legislature. While I was not one of those who went to the hearings, the report came back that the experience was devastating. The legislature seemed in the mood to pass a bill to regulate psychology. A bill supported by OSPA and by the OPA Board (as the legislature knew, even though the OPA Board did not itself indicate support) and that was opposed only by some recalcitrants in Cleveland seemed like a

good bet, especially when it was being vigorously supported by a powerful senator and contained enough exclusion clauses that few other groups in the state opposed it.

The bill began to look to the Cleveland psychologists more and more like it was on greased skids entering a downhill run through the legislature. We reviewed our situation and concluded that we were indeed legislatively naive and largely impotent to change the bill. The crowning blow came when the Ohio State Medical Association (OSMA) presented and had accepted by the legislative reviewing committee its own amendments to improve “our” bill. These amendments added a third level license, “Psychologist-psychotherapist,” to the bill with requirement to pass an examination to be prepared and graded by the State Medical Board. This looked indeed like catastrophe in the making.

The membership of the Cleveland Academy of Consulting Psychologists assessed itself \$150 a person, a relevant sum in those days. \$5,000 paid for the services of a sophisticated Republican attorney who was friendly to psychology. The Senate was Republican, Ocask was a Democrat, and our friend was able to use his influence to lock the bill irretrievably in committee until after the legislature recessed for the fall. The bill was not scheduled forward for the 1970 calendar.

The immediate disaster was past. It had been a squeaker that everyone came out of bloody, angry, and a bit chastened. The Cleveland psychologists realized how far we were from positions of power and influence (the two are synonymous in politics) either within psychology or within the legislature. The school psychologists discovered what they had been teaching OPA for years, that it is easier to kill a bill than to push one through. The OPA officers discovered that Cleveland would have to be pacified before OPA could function effectively in the political arena.

As if things were not chaotic enough at this point, crippling changes took place in the governance structure of the Cleveland Psychological Association. Many of the Board positions of CPA were appointed by the President. Others were elected. By whatever reason of chance or design, and I suspect much of both, CPA began the 1970-71 year systematically balanced with school psychologists and APA-type psychologists, which totally immobilized CPA as a politically functional organization.

Cleveland professional psychologists, already out of favor within OPA and with the school psychologists, thus even lost the relatively broad power base that had been formerly provided by the Cleveland Psychological Association. It seemed an unpromising situation from which to seek passage of a strong licensing bill, but at least the preceding events had greatly clarified issues and stripped away some of the superfluous ballast that could prevent mobility in the legislative arena. We could start fresh, and did. The legislative effort was moved from CPA to CACP. Instead of looking for a compromise bill that would not draw opposition, we obtained from APA Central Office a copy of all existing bills and drafted our own “model bill,” without consideration for whether or not this could be passed.

We did the predominant writing of the initial model bill ourselves, but needed legal guidance. The OPA attorney was based in Columbus, was not immediately accessible and was an unknown quantity to the Cleveland group. I approached Carl Wasmuth, a physician and an attorney, Chairman of the Board of Governors of the Cleveland Clinic, my own institution. He held a faculty appointment at Cleveland Marshall Law School and agreed to assign a senior law student to work with us in developing a model bill. The notion that a physician would assist us in developing a first-rate licensing bill for psychology did not and does not seem anomalous. Medicine has much to gain from having a profession as potent as psychology subjected to the constraints and controls of legislative regulation, since there is certainly much psychological input into the health field. My own institution stood to benefit from having psychology legally recognized as a profession, since Gary DeNelsky, Mike McKee, and I all held appointments as staff members in the institution and had significant patient responsibility. The Cleveland Clinic fortunately is one of those quality institutions that often place considerations of competence and functionality substantially above considerations of non-functional past tradition and counter-productive territoriality disputes.

Mr. Eric Gilbertson, whom Dr. Wasmuth assigned to us and who has since passed his Law Examinations and became an Assistant to the Ohio Attorney General, worked closely with us in the drafting and initial revision of the bill. He was most helpful. I think Dr. Wasmuth's sole instruction to him was to help us write a good bill.

The problem ahead of us was relatively simple and yet quite complex. Basically, it was to develop a strong bill that would be better, not worse, than no bill at all; develop intra-professional support for the bill; either develop support from other related groups such as school psychologists (depending on whether they were defined as intra or inter-professional), physicians, social workers, et cetera, or develop tactics for neutralizing the opposition of such groups; and then secure legislative support and passage of the bill. The key issue seemed to me to be the content of the bill. A weak bill could not be sold internally, and I for one wanted no part of a weak bill. A strong bill that did not take into account the sensibilities of other groups could not be sold externally. We could not muster enough impact to ram through a bill solely on the basis of power. We could muster enough impact to prevent any other group in the state from ramming through a bill solely on the basis of power. The real question was whether a truly saleable bill could be written.

Several basic principles, some of them more clear in retrospect than in prospect, guided the development of the bill. One of these was that the legislation would have more influence on the profession ten years or twenty years into the future than immediately. That is, it was not being written to correct grave problems that currently existed in the state. The profession was still too young to have generated many such problems. The bill could be true social engineering for shaping a future profession rather than a present one. This principle had several corollary tactical implications.

First, we could be generous with grandfather-clause inclusion of present reasonably competent practicing professionals, such that we could allay the nervousness of current practitioners who might otherwise lose their livelihood. There was not a large community of psychological quackery in Ohio, especially among those who identified themselves with professional psychology. The grandfather base therefore became the Master's degree, or in some instances, even a lower degree, with appropriate professional experience. This meant that all Master's level school psychologists would also be grand-fathered into a generic rather than a school psychology license. Such inclusion of school psychologists would accomplish two major practical goals. First, it would clearly identify school psychology as a subspecialty under the generic license rather than as a separate specialty in competition with the generic license. Second, it would give the state a broader dispersion of licensed psychologists than would be possible otherwise, since school psychologists were more broadly spread geographically than were clinical or other psychologists. From the sociologic standpoint, this broad base would be both culturally and professionally useful. Ethics provisions would still restrict practice to areas of competence, but the generic license would allow school psychologists or other Master's level psychologists to broaden their skills through training and then apply those skills legally, under the protection of their generic license. The grandfathering in of all school psychologists and other current Master's level psychologists would, of course, be an open declaration that "we" did not regard "them" as basically second class citizens, that we did feel that our joint profession called for high standards of minimal training which, for persons planning to enter the profession in the future should be at the Doctoral rather than the Master's level.

The basis for the grand-father clause in any such bill is, of course, to recognize that the persons in any new profession often have to learn primarily by experience rather than by training, but then can transmit that training to their successors through systematic degree programs or other requirements that call for more formal credentials by their successors than by the pioneers themselves. It is impressive, for example, that only two states, California and New York, have [at the time this was first written] true professional schools in psychology, even today, and that most of us professionals were more academically than professionally trained. The recognition that legislation thus shapes the future more than the present adds obvious rationality to this highly important precedence of grandfather standards under the law.

Another corollary to the future-orientation of the legislation was that, insofar as possible, subspecialty definitions would be avoided and generic definitions would be utilized. The previous bill as finally amended was built on a school psychology, psychology, and psychology-psycho-therapist model. The present bill was oriented around a single generic license (with later concessions to the school psychology subspecialty at the Master's level), with the expectation that Doctoral level school psychologists would apply for the general license just as would Doctoral level psychologists in all other specialties.

A third corollary was that the danger of any loophole which would allow escape from the provisions of the bill in the future would generally considerably outweigh any advantages that might be gained in the short run from exempting oppositional groups. Contrary to the immediately preceding bill, this bill would not contain exemptions for state employees, private agencies, non-profit institutions, “any member of other recognized professional groups such as, but not limited to...”, et cetera. If at all possible, it would not be a certification bill but would be a true licensing bill. That is, it would reserve the area of practice, not just certify the title.

A fourth corollary was that, insofar as possible, the bill would place considerable latitude for regulation of the profession in the hands of the proposed State Board of Psychology. We would not try to write into statutory law too many provisions for the structure of the profession as it now exists, which structure might change drastically with future developments in the profession. Thus, elaborate provisions for supervision, structuring of the profession at the Master’s level et cetera were omitted, but authority to regulate the nature of supervision, the functioning of Master’s level psychologists, and the like was granted to the State Board. [The State Board still has the power to determine these issues. OPA and the State Board should systematically revisit them periodically. Even major revisions can be made, if appropriate, simply by changing the Ohio Administrative Code, with no change to the ORC statute itself. DAR]

Another major guiding principle in the development of the bill was to infringe on or restrict as little as possible those activities of a psychological nature which other professionals or non-professionals might legitimately utilize, to restrict as severely as possible those activities that were uniquely psychological in nature and that others should not “legitimately” utilize, and to claim as broadly as possible access to those techniques or procedures which psychology might professionally need to utilize in the exercise of our own cultural and professional mission. This, of course, is the essence of differentiating the boundaries of psychology from non-psychology, of defining the profession. This was the one issue which was most difficult to write into the initial bill and around which most of the subsequent revisions of the bill developed. [With the benefit of hindsight, I could do a much more adequate job of this today!!! More specifically, I would argue for each practitioner profession, including psychology to define the social case of psychology, to define the social problems it addressed [problems of human behavioral coping, in the case of psychology] and to have unlimited access to tools to address those problems, subject only to demonstration of proper training in their use and to oversight regulation by its own [not some sister profession] state regulatory agency. For the culture to give a group responsibility for addressing a class of social problems but to deny it access to some of the tools that would be useful for such work is programmatically foolish. See the following paragraphs. DAR]

An extension or variation of this principle, that guided the development of the bill, was that every profession ultimately stands to benefit from having every other profession defined at the highest level of functionality possible, with maximum supports for doing its own thing well, and with minimum juris-dictional disputes, provided there are safeguards for the public welfare. We had

long enough lived with the monopolistic bias of medicine that we did not care to monopolize territories which others could appropriately use conscientiously and ethically. We thus exempted from all provisions of our bill, except the certification provision of use of the title of psychologist, all legally regulated professions in the state, “qualified social workers while functioning in their capacity as social workers,” and “duly ordained ministers while functioning in their ministerial capacity.” These latter two groups are not regulated under Ohio law [at the time this was written. DAR] but are recognized professionals. In the absence of their own coercive internal or legal regulation, we left open by the above wording the possibility of entering the courts to challenge whether or not professionals in these latter two groups are functioning within their own professional fields if we should feel their activities encroach on the practice of psychology to a degree that goes beyond their own professional “rights.” For example, we probably would legally challenge a minister who sets up a private fee-for-service practice of psychological psychotherapy that is not subject to regulation by a church governing structure.

A third general principle was that we assumed words were extremely important, that a phrase or word could make the difference between highly effective legislation or disastrous legislation. For example, in terms of exempting other professions regulated under statutory law, we chose the following wording: “Nothing in this chapter shall restrict persons licensed, certified, or registered under any other provision of the Revised Code from practicing those arts and utilizing psychological procedures that are allowed and within the standards and ethics of their profession or within new areas of practice that represent appropriate extensions of their profession, provided they do not hold themselves out to the public by the title of psychologist.” [We should have restricted the use of the term “psychological” while still allowing access to the procedures, so that, e.g., social workers and psychiatrists could do an MMPI interpretation – i.e., use the psychological test – but would need to label it a “social work” or “psychiatric” interpretation, not a “psychological report.” Too bad. DAR] The wording was chosen to allow us, under our bill, to question the use of psychological procedures by another professional on the grounds that he/she was not functioning within the standards and ethics of his/her own profession, not on the grounds that he/she was infringing on “psychological territory.”

Our law thus throws a power blanket over the use of psychological techniques in related professions, providing additional legal basis for “coercing” such professionals to function ethically within the standards of their own profession. This wording, of course, also implicitly places responsibility on the profession of psychology to stay informed about the legal and ethical standards of our associated professions, and to influence those in desirable ways should they drift toward mediocrity or irresponsibility. Note also that this particular wording does not lock other professions into only those psychological techniques that are currently acceptable, but leaves open their growth into appropriate new areas utilizing psychological techniques, while also leaving open to psychology the possibility of challenging that appropriateness should we and they disagree about it.

Again, under the second general principle enumerated above, we do not set ourselves up as the judge of what others can do in the psychological area but do through statute law set up a provision for taking to a public jury for public settlement issues that might adversely affect the public in the use of psychological procedures. For example, if licensed shoe salesmen began to do group therapy for pedophiliacs, on the grounds that shoe salesmen were licensed and therefore exempted from the psychology law and that such work represented an appropriate extension of their profession as shoe salesmen, the particular wording of our statute would allow us to challenge in court whether or not such work was indeed an “appropriate” extension. Our exemption is thus not a blanket exemption that anyone and everyone who is regulated under the law may use psychological procedures, but it establishes an orderly approach for adjudicating appropriate versus inappropriate usage in the public interest, without establishing monopolistic control. Note also that this particular wording clearly protects the certification feature of the law while making less exclusive the licensing feature of the law: “Provided they do not hold themselves out to the public by the title of psychologist.” [This protection title has subsequently been tentatively reviewed by an Ohio Attorney General and tentatively rejected, although no court case has dealt with it. It has been rejected on the grounds that the term “psychology” is used in both a generic sense and a precisely defined sense in Ohio Licensing Law statute – ORC 4732, and the generic meaning, which cannot be restricted, takes precedence over the restricted meaning. This is a clear example of the extreme importance of words in legal statutes. It would take a court case for final determination, and neither “side” has been willing to risk that so far. DAR]

It is my strong feeling that the importance of word usage simply cannot be overemphasized in legal statutes. Perhaps a “corollary” of this principle is that our bill was very carefully drafted initially, after review of all preceding statutes from other states, and subsequently went through probably 20 major revisions and no less than 50 to 100 minor revisions in its subsequent passage through the legislative process. [Actually, there are several goofs in the wording of the statute as it was finally adopted. Except for those explicitly mentioned, I will refrain from identifying them, though. DAR] Through words, what might be a minor change to psychology could become a major change to an allied profession.

One of the most dramatic examples of the importance of words concerned the issue of psychotherapy. Prior to the turn of the century, the Medical Practices Act in Ohio included the term “psycho-therapy” as one of the medical practices. If we wrote psychotherapy into our bill as a psychological practice, this would presumably require opening and modifying the Medical Practices Act as well, to bring it into concurrence, since psychotherapy is currently a restricted medical practice. We therefore resolved this issue by using the term “psychological psycho-therapy” instead of “psychotherapy,” which we are assured by legal advice and by the agreement of the Ohio State Medical Association does not invade the current Medical Practices Act and does not restrict the “non-somatic” psychotherapy that psychologists can practice.

Our initial model bill in retrospect looks somewhat crude, although it was a rather marked break with the immediate past tradition, which was to write as diluted a bill as possible with as many exemptions as possible so as to offend as few other groups as possible. Our tactics were to write as strong a bill as possible and then regress when and as we had to. The one high hazard was to avoid giving ground on critical substantive issues while remaining completely flexible on non-substantive issues, and being perceptive to differentiate the one from the other.

While work was progressing on the development of the bill, several organizational changes were taking place. The professional psychologists of Cleveland moved our power base to the Cleveland Academy of Consulting Psychologists and essentially abandoned the Cleveland Psychological Association as an instrument. Simultaneously, an Ohio Academy of Consulting Psychologists (OACP) was formed, parallel to OPA, under the Presidency of Jack Wiggins, a Cleveland-based professional psychologist who was also Chairman of the APA Committee on Health Insurance, APA's most professionally oriented committee. We thus retreated to a hardcore professional cadre, at both the Cleveland and the state level. In the critical 1969-70 year, Jane Kessler was elected President of the Ohio Psychological Association. She is from Cleveland, an unusual combination of academician (Case Western Reserve), administrator (Director of the Institute for Mental Development), and professional (skillful analytically oriented therapist). She was not a member of CACP or OACP but was not antagonistic to these groups. At about this same time, Malcolm Gardner, who for several years had been (and still is) Executive Secretary of OPA and who had been Legislative Chairman for OPA, decided that the positions of Executive Secretary and Legislative Chairman were antithetical, since as Executive Secretary he conscientiously tried to implement OPA policy rather than to initiate it and as Legislative Chairman he felt obligated to assume an advocacy position with regard to legislative issues. His resignation as Legislative Chairman left a vacancy that needed to be filled.

Since I had been active in the immediately preceding legislative turmoil and was taking a leadership position in drafting a model bill, my Cleveland colleagues urged Jane Kessler to appoint me as her Legislative Chairman, a position that was to be filled by presidential appointment. With perhaps more faith and trepidation than good sense, and after one meeting with me, she did so appoint me, no doubt with considerable misgiving on the part of the OPA Board, who were nervous about the Cleveland rebellion but who also probably felt that it was about time Cleveland picked up some of the bruises of being on the front line of the legislative battle.

I completely agree with Mac Gardner that the position of Legislative Chair is basically an advocacy position. Indeed, my agreement with the State Board when I took the position was that I would work conscientiously and hard to convince the Board of the appropriateness of my position, would not implement policy without Board approval, and would cheerfully resign if my position and the Board position became irreconcilable, but that I would not pledge myself to implement Board position unless I agreed with it. I thus became an advocate for a legislative

position rather than an implementer of someone else's position. There in fact turned out to be virtually no conflict, because the basic concerns of all of us were essentially identical, and pooled judgment about tactics, with consensual agreement, generally turned out to be much more constructive than would have been any kind of narrow factional action.

We devoted the rest of the 1969-70 legislative year to preparation of a bill and to closing ranks within our own profession. The state psychologists gradually became acceptant of the notion of entering the political arena with a strong bill and regressing if needed, rather than trying to write a bill that offended no one. I logged much mileage during this period, talking with many psychology groups and many psychologists. The psychologists of the state were basically weary of struggle, which might have accounted for some of their willingness to let the Cleveland group run with the ball initially. Later on, there was strong support and effort throughout the state.

The first "model bill" was circularized to the OPA membership in July of 1970. David Blythe was upcoming president for OPA and retained me as Legislative Chairman. Both houses of the legislature were Republican, although a Democratic governor, John Gilligan, was elected in the fall of 1970. OACP had previously used the legal services of a senior and influential Republican senator from Columbus, Robert Shaw. He reviewed our proposed bill and agreed to introduce it into the legislature. The bill at this time did not contain provisions for a school psychology license. The school psychologists were preparing to introduce a bill of their own.

Our bill was introduced in April of 1971, as SB 176. Proponent hearings were held by the Education and Health Committee of the Senate on April 28th. A few days later, the school psychologists introduced a counter bill, SB 259, for a general psychology license at the Master's level. That bill was sponsored by Senator Ocasek, among others, and predictably was totally unacceptable to traditional psychologists in the state. Because the bills pertained to the same area and were obviously contradictory, both SB 176 and SB 259 were referred to an Education and Health Subcommittee consisting of three senators, including Senator Ocasek. It was quite clear from the composition of the subcommittee that both bills would be stalemated indefinitely unless the school psychologists and traditional psychologists could develop a compromise. During the summer, essential features of that compromise were worked out, much as they were retained in the final bill.

School psychology clearly posed a special problem for us. We felt that our school psychology colleagues were competently trained, professionally ethical, conscientious subspecialists who for the most part were not abusing their subspecialist role. We were aware, of course, that Master's level licensing was contrary to APA standards, although the issue of Master's level subspecialty licensing has never really been adequately dealt with by APA governance. We were very aware that a danger of subspecialty licensing is the possibility of expansion of the subspecialty to be a general license in practice if not in theory, especially when the processes and definitions of psychology are so difficult to specify rigorously. We were also hyperaware of the insurance issue,

in which any Master's level licensing for practice covered under health insurance laws would almost certainly guarantee that such coverage would not be extended to psychology. That is, experience with attempts to get "freedom of choice" coverage of psychologists' services under insurance contracts in other states had clearly delineated the strong determination of insurance carriers not to extend such coverage below the Doctoral level and to oppose most vigorously any legislative attempts to mandate such extension. The problem was therefore whether or not a subspecialty licensing law could be written that would allow effective practice of school psychology but would proscribe extension of that practice outside of the school psychology subspecialty, and that would be acceptable to the school psychologists.

With Jack Wiggins serving as expert interpreter of what language would or would not open the school psychology subspecialty to professional health care practice and thereby jeopardize insurance coverage of the profession of psychology in the state, with the OSPA officers and especially Frederick Lawrence, Jack Prizer, Michael Chrin, Ernest Hudak, and Janko Kovacevich interpreting whether or not language would be suitable to the school psychologists, and with Wesley Jackson of Cleveland compulsively reading draft after draft of possible wordings for their general implications for professional psychology and proper English, draft after draft was tried.

We discovered, not surprisingly, that the basic issues really were not irreconcilable. The school psychologists did not want school psychology to be defined as a broad second-class general practice license any more than did the rest of us. Most of the rest of us, in turn, generally felt that there was a distinct cultural need for private practice in school psychology within the state, such that parents who were dissatisfied with results of school psychology assessments or recommendations within their own school could turn to independent practitioners for consultative advice, which practitioners would most appropriately be practicing qualified school psychologists. The basic difficulty was the language that would not hamper the appropriate practice of school psychology but would not provide loopholes for broad general practice under a subspecialty rubric. After rather extensive and not always comfortable negotiation, an acceptable definition of a subspecialty area of practice was achieved.

As with many such matters, we drew on past experience in other areas. California had passed a licensing bill for school psychologists at the Master's level the previous year. We were not particularly comfortable with the wording of that bill. Nevertheless, with modification of that wording to the needs of our own state and our own bill, we were able to arrive at language that was satisfactory to both school psychologists and traditional psychologists in Ohio. The final wording/was as follows: (E) "Practice of School Psychology" means rendering or offering to render to individuals, groups, organizations, or the public any of the following services: (1) Evaluation, diagnosis or test interpretation limited to assessment of intellectual ability, learning patterns, achievement, motivation, or personality factors directly related to learning problems in an educational setting; (2) Counseling services for children or adults for amelioration or prevention of educationally related learning problems; (3) Educational or vocational

consultation or direct educational services. This does not include industrial consultation or counseling services to clients undergoing vocational re-habilitation.”

Around this wording, SB 176 and SB 259 were merged into Substitute SB 176, which became a generic license at the Doctoral level and a subspecialty school license at the Master’s level. The remainder of the summer of 1971 was taken up with securing approval from both groups for this new format. Throughout the rest of the legislative effort, close contact was maintained with OSPA, but it was not until the end of the ordeal that this relationship became a true collegial rather than a borderline adversarial one.

By late fall, we were ready to proceed as a united profession. OPA and OSPA were coordinating efforts. Vytautas Bieliauskas, from Cincinnati, was now OPA President. I was President-elect and continued as Legislative Chairman. James Guinan, from Bowling Green, was involving the northwest section of the state. James Webb, from Ohio University, was beginning to involve the southeast area. Solveig Wenar, President of Central Ohio Psychological Association, had mobilized the Columbus area for immediate involvement at the Capitol, and a number of Columbus-area veterans, including Malcolm Gardner, Henry Samuels, and Herbert Rie, were becoming ever more familiar with hearing rooms and legislative chambers. Cleveland had been mobilized for some time with George Ritz, Ila Johnson, Wesley Jackson, Jack Wiggins, Ira Friedman, George Steckler, and Alvin Sutker among others being especially active. Michael McKee and Garland DeNelsky, in addition to being active in the legislative effort, were also covering my practice for me at the Clinic when I had to be away suddenly.

Time had essentially run out on the 1971 legislative session and there was little action until early 1972. We were, of course, pleased to resolve the difficult intra-professional issue but were well aware that such resolution would then lead directly to the inter-professional conflicts. Indeed, we had been quite surprised at the lack of inter-professional opposition to date. The other professions no doubt were fully expecting the school psychologists and traditional psychologists to kill each other off and were not paying a great deal of attention. There seemed to be some surprise in many quarters when a substitute bill was reported out of committee, with unanimous committee support, in early 1972 and passed the Senate with only one dissenting vote. This strong support was no doubt in recognition of sponsorship of the bill by Senator Shaw on the Republican side and Senator Ocasek on the Democratic side, along with a number of other highly influential senators.

The bill moved to the House, clearly labeled as a hot bill that had to be stopped if it was not going to become law. If we were expecting more attention than we had received so far, we were not disappointed. Even though the bill had taken from April to February to get through the Senate, it was labeled as a “railroad job” as medicine, nursing, social work, Ohio Citizens Council for Health and Welfare, optometrists, and seemingly numerous other groups suddenly decided they should review the bill rather carefully.

It was assigned to the House Committee on Health, Education and Welfare, which was under the able chairmanship of Representative Murdock. He vowed to make sure our bill would have adequate public hearing to make up for any lack of such hearing in the Senate. He subsequently assigned it to a subcommittee chaired by Representative Donna Pope, a freshman Republican who had been appointed to the House to fill a vacancy and who proved to be a remarkably conscientious, effective, dedicated, and thorough subcommittee chairperson, almost invariably under the impressively comprehensive watchful eye of Representative Murdock. Representatives Kindness and Sweeney, Republican and Democrat respectively, both able legislators and intellects, completed the subcommittee.

While we had not been unmindful of other professional groups in the state, they had been somewhat unmindful of us until this point. There ensued vigorous negotiation with these other groups, to clarify wording and eliminate ambiguities that might have concerned them. In general, conflicts that existed were unintentional and were subject to amicable clarification.

There were, however, two strong exceptions. One was medicine, which requires some discussion in its own right. The other was a far more fundamental conceptual issue. Anyone that has read our APA definition of psychological practice or the definition in almost any of our state statutes must be impressed by the fact that one's own mother cannot say "good morning" without practicing psychology under these definitions. Our proposed law, like every other psychology licensing law then on the books and I suspect those written since, defined the practice of psychology broadly and then tried to license that practice as exclusively the province of licensed psychologists.

It is a sobering experience to stand before a legislative committee and have highly perceptive people raise such issues point blank, in effect asking whether we really expect them to write into statute law psychologists' pre-emption of such sweeping activities as "application of principles, methods, or procedures of understanding, predicting, or influencing behavior, such as the principles pertaining to learning, conditioning, perception, motivation, thinking, emotions, or inter-personal relationships...". I suggested to the committee that I would try to propose language that might satisfy their concern in this area, and respectfully departed.

Two things were immediately clear: first, any law that pretends to be a licensing law which attempts to throw a licensing blanket over these activities would certainly be moot in court and would be no licensing law at all. I have since confirmed this in consultation with attorneys. Second, many of the clearly technical dimensions of professional psychology indeed should be available to the general public and should not be the exclusive province of psychology, even though we should explicitly have legal access to such procedures. Only a relatively few of our procedures should truly be restricted by the licensing provision.

There seemed a straightforward solution: to define the practice of psychology broadly but to exempt from the licensing provisions those procedures that were essentially benign or "necessary

for everyday living” (effective living, after all, does require rather sophisticated use of rather sophisticated psychological tools, by everyone). We therefore created a major headache for the future State Board of Psychology and a major breakthrough in language that we felt would potentially serve the best interests of the public and of the profession, by inserting the following exemption: “Nothing in this chapter shall restrict any person in any capacity from offering services of a psychological nature provided they neither hold themselves out to the public by the title of psychologist or school psychologist nor utilize psychological procedures that the State Board of Psychology judges by uniform rule in accordance with Chapter 119 of the Revised Code to be a serious hazard to mental health and to require professional expertise in psychology.” We thus declared directly and openly that we were not trying to pre-empt any aspect of our technical knowledge except those aspects that posed potential harm to the public unless handled with the professional expertise available to the professional psychologists.

This was an acceptable clarification to the legislative committee and allowed redrafting several other sections of the law in more parsimonious and effective language. In my estimation, it makes the Ohio law probably the only truly enforceable licensing law on the books and allows us the tightest certification law in the country. We exempt no psychology groups except federal employees from the essential provisions of the law, except for the teaching of psychology and research when these do not otherwise involve professional practice in which patient or client welfare is directly affected. Thus, state employees, employees of non-profit or charitable organizations, and similar groups that are often exempted come under the regulation of our statute. Counselors, vocational guidance people, deans, and the like have free access to non-harmful psychological procedures so long as they do not represent themselves as psychologists unless they are so licensed. We thus were able to draw very narrowly and specifically those groups that are exempted from the law, because we did not pre-empt functions which other groups legitimately need in order to carry out their own professional activities.

With this modification of the statute, we did not have a great deal of difficulty working out harmonious wordings for most of the other objectors – i.e. any more difficulty than endless hours, urgent telephone calls, repeated drafts of wordings, assessment of and either squelching or accepting or modifying amendments submitted to the legislative committee by other groups, and accommodation to a sense of endlessly being on the floor of the New York Stock Exchange during a period of furious trading. I do not think the final wording reflects the endless phone calls and sense of dickering that seemed to me to characterize this period. Suffice it to say that the bill was totally re-written by and in collaboration with the House Health, Education and Welfare subcommittee.

In the entire process, with a few significant exceptions, my impression was that the revisions repeatedly clarified, simplified, and pushed the key provisions of the bill toward basic principles, without compromising in the least the basic goals or intent of professional psychology within the state. We were very fortunate to be working with a highly competent, cognitively oriented

legislative committee that was interested in passage of a good bill. We were also fortunate to have strong bipartisan support from key legislative leaders, support that, of course, took some cultivation. I think the legislators came to respect us as having integrity, intelligence, and commitment to building a sound and competent public-serving profession, not opportunists serving our own personal interests. Had they seen us otherwise, I think the outcome would have been decidedly different.

The reconciliation with medicine was not as traumatic as we had anticipated, partially because there are conscientious competent physicians with integrity in Ohio who are interested in assisting psychology in becoming a first-rate profession. One key person in this regard was Kenneth Gavor, a physician, that Governor Gilligan recruited from Oregon to become Director of the Department of Mental Health and Retardation. Dr. Gavor was highly supportive of the bill, approving the inclusion of state employees under the provision of the bill and encouraging medicine to be responsive to our concerns. Dixon Weatherhead and other psychiatrists in my own Department and other physicians at the Cleveland Clinic were especially helpful, writing key letters and otherwise being supportive. George Harding, Jr., Chairman of the Ohio Psychiatric Association Legislative Committee, other members of his committee, and a number of psychiatrists throughout the state, such as Cynthia Harris and James Gutentag in Cleveland, were also genuinely concerned about working out reasonable compromises. Fully as important was probably the related fact that the Ohio Legislature was beginning to feel that the medical lobby was too power-oriented and self-serving to be followed uncritically, psychology had finally gotten somewhat sophisticated in the political arena, and psychology's growing political influence was beginning to be recognized by medicine such that the Ohio State Medical Association was in a more conciliatory mood than it might have been at some other time.

In any event, we finally reconciled our differences with medicine. We claimed "psychological psychotherapy" rather than "psychotherapy" as a psychology practice. This seemed to us a somewhat wasteful compromise, since it means that an extra word has to be added in telephone directories and other official documents, but it in no way changes our practices or protects the public. I am still unclear as to whether or not we really would have invaded the Medical Practices Act had we used the unmodified term "psycho-therapy," but it seemed basically a minor concession to obtain the non-opposition of medicine, and was a concession that our friends in medicine won for us only after vigorous work on our behalf, for which we are indeed grateful.

We also added the disclaimer that "this chapter does not authorize any person to engage in any of the acts which are regarded as practicing medicine under section 4731.34 of the Revised Code." [This concession was a necessary mistake, because "practicing medicine" is defined under 4731 as using specific techniques, which we were therefore essentially legally restricted from using. My bias, as was reflected in how our bill treated other professions, is that all professions should be restricted as to the problems they address but unrestricted, except by ethics and competency and data-based evidence, from the use of tools or techniques that would allow them to do their

job. Prescription “privileges,” for example, should be a matter for the psychology profession and the State Board and the objective evidence to decide, not a matter of arbitrary monopoly by any one profession. Perhaps next time around. DAR]

We then added, as another direct concession to medicine, the assertion that “In order to make provision for the diagnosis and treatment of medical problems, a licensed psychologist engaging in psychological psychotherapy with clients shall maintain a consultative relationship with a physician licensed to practice medicine by this state.” This provision gives minimal protection to the public and opens psychologists to some dysfunctional harassment (for example, we are having troubles with some insurance companies who are blatantly misinterpreting this section). Any psychologist who follows the ethical principles of the American Psychological Association, which principles have essentially been incorporated into Ohio State Board Regulations and are therefore legally binding, will meet the requirements of this provision. It requires consultation with a physician when (and only when) medical problems seem actually or potentially relevant to the psychological problems of our clients. Having access to a physician by phone, and using that access if patient welfare requires it, satisfies this provision. The provision does, of course, remind us of the legal as well as ethical necessity of being cognizant of the medical dimensions of our clients’ psychological problems, and in this sense it has a constructive impact. However, the same provision could just as appropriately be written in for a consultative relationship with an attorney, with a minister, with a social worker, with a dentist, with a podiatrist, et cetera, when psychological problems required clarification from these other collateral professionals. It seemed more an insult than a legal necessity to me, but it was a political necessity, and basically we are grateful to our medical friends who were able to achieve neutralization of medical opposition with this concessionary language.

Another disclaimer that impressed me as being self-serving territoriality rather than concern for the public welfare was insisted on by the optometrists: “The practice of psychology, the practice of school psychology, or the use of psychological procedures does not include the diagnosis or correction of optical defects or conditions through the utilization of optical principles Including optical devices or orthoptics.” The wording as chosen does not preclude psychologists from working with visual defects by our own behavioral procedures. It did not seem to me that optometry was at much risk from psychologists trying to correct optical defects through the use of orthoptics, or that psychology would be hampered much by including such wording in our bill, even if it did seem to me to be irrelevant. Again, we might have been forced to write similar exclusions for “infringement” on nursing, the ministry, podiatry, and the like if these groups had felt similarly possessive about their own domain and if they had had attorneys or legislative advocates who would have taken up their cause as vigorously and effectively as did the optometrists’ attorney. My view is that the public interest is well served by the absence of such concern by other groups.

With the opposition of most organized groups being neutralized in the subcommittee, through appropriate language in the bill that did not really change its basic nature, the amended revised bill was returned to the parent committee for public hearings. The most threatening opposition there came from within psychology itself, in the form of a few academics at Ohio State University, who had not taken the trouble to express themselves during, or to be a part of, the long arduous preparation of the bill to this point. They essentially were arguing an iconoclastic position of no regulation of the profession, and did not impress the legislators with their arguments. We perhaps provided some interpretation to assist the legislators in feeling somewhat ill-disposed toward the arguments they presented. In any event, with the legislative advocates of nearly every professional group in the state sitting in close attendance in the hearing room, to make sure their own interests were not altered by last minute committee changes, the Amended Substitute SB 176 was favorably voted out of committee. This had been no railroad job, but had been a tedious, painstaking, completely thorough review and rewriting of the bill in the spotlight of public scrutiny. In my estimation, it was legislative process at its best.

Perhaps one further comment about this stage of the process should be made. When a legislative committee is drafting legislation, there is not time to review every wording change and every policy position with all of the psychologists of the state, or even with the Association Board of Trustees or even perhaps with the legislative committee itself. Decisions and literally momentous decisions for the future of the profession must often be made by a single individual in a single moment. That individual must be thoroughly cognizant of the various attitudes and concerns and biases of his or her colleagues, of the legislative group, of the potential adversaries to the legislation, and of the short-term and long-term implications of almost any and all wording changes that might be made. That person must then be willing and able to act for the best interests of the profession and the public rather than for any private interests or private concerns of his or her own, and the integrity of such action must be apparent in the final product. Otherwise, at least in legislative processes as complex as this was, the fatal pitfalls are very numerous and almost impossible to avoid.

Basically, such a situation is not one for committee action, although any person on such a firing line that does not make as much use of committees and collateral opinions and ancillary support as is conceivably possible is an utter fool. Nor is the situation one that lends itself to endless academic debate. Above all, some few people with ability must be available, usually at tremendous personal sacrifice, to exercise the necessary integration and leadership. It would be folly not to monitor as carefully and obsessively as possible every action of any leader in a legislative effort, but it is even more folly to ignore the practicalities of impact and flexibility that come from conscientious and skillful individual leadership exercised with integrity. Any able person who can and will run with a legislative ball under such circumstances should have his or her hands untied as thoroughly as possible by the membership, always with constant monitoring and correction but with as little hampering as possible.

If survival of the bill to this stage had been dramatic at spots and sufficiently improbable as to be almost miraculous, we still did not have legislation on the books. The legislature had already remained in session unusually long, because of a budget conflict generated by a Democratic governor and a Republican legislature. There was the possibility that the legislature might be only days away from adjournment, and many bills were crowding the calendars. By now, however, there were psychologists throughout the entire state who would have been willing to walk to Columbus to hand carry the bill from one committee to another if it would have facilitated the final passage. Ila Johnson, President of CACP, could and often did activate the entire CACP membership through a telephone network on a few hours' notice. If money was necessary, assessments could be made and were collected. If letters of support needed to be written, they could be rather quickly summoned. In general, the psychologists of the state had finally become mobilized.

Hopefully, some of that enthusiasm spread to the legislature. Senator Shaw and other friends in the legislature were also consistently and indispensably helpful. The bill moved out of the House Health, Education and Welfare Committee to the House Rules Committee to the House floor where it passed with only one dissenting vote, after lively floor debate and able defense by Representative Pope, among others. The date was Thursday evening, June 1, 1972. The following Tuesday, June 6th, it went to the Senate floor for concurrence with the House amendments. The Senate concurred without debate. The Governor signed the bill on June 22, 1972. Psychology was finally a legally regulated profession in the State of Ohio.

The final bill was, I think, an example of the potential for good legislation to be written that does not unduly dilute basic principle if the appropriate people and enough of them are willing to devote sufficient energy and resources to the legislative process.

As an after comment, I would add that the passage of this bill, as is the case in all such legislation, was only the opening wedge and certainly not the end of the necessity for vigorous legislative involvement of psychology. The Ohio Psychological Association has since added a half-time legislative and agency liaison person to our staff, has raised dues from the embarrassingly low figure of \$15.00 per person to the still embarrassingly low figure of \$35.00 per person, has secured passage of a freedom of choice insurance bill, has had input to a number of other bills, and has monitored, since passage of the licensing act, literally hundreds of other bills that have relevance for psychology in one way or another. While our effort in obtaining passage of a licensing bill was undoubtedly unique, every other state either has had or must have a similar unique experience in entering the legislative arena and discovering that any profession must function within the fabric of statute law before it is a really effective profession. How well we as professionals enter this arena will determine how effective our profession is in serving both the public and ourselves. Such activity is and must remain an indispensable part of our professional armamentarium.