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OPINION 03-29

Ms. Brenda C. Ward
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La. State Board of Examiners
of Psychologists
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Baton Rouge, La. 70810

63-B Licensing - For Professions
or Occupations

The Board for psychologists can
enact rules and/or guidelines
whether to allow retroactive
renewal of a lapsed license.

Dear Ms. Ward:

This office is in receipt of your request for an opinion of the Attorney General in regard to retroactive reinstatement of licenses to practice psychology for failure to renew during the month of July. You set forth the following statutes:

~~R.S. 37:2354(C)- Every licensed psychologist in this state shall annually pay to the board during the month of July of each year, beginning in the year immediately subsequent to his initial license, a renewal fee to be determined annually by the board. The license of any psychologist who shall fail to have his license renewed during the month of July in each and every year shall lapse; the failure to renew said license, however, shall not deprive said psychologist of the right of renewal thereafter. Such lapsed license may be renewed, within a period of two years after such lapse, upon payment of a reinstatement fee equal to the current application fee and the current renewal fee.~~

~~R.S. 37:2357(A) Persons licensed as psychologists under the provisions of this Chapter shall be eligible for renewal of licensure without regard to any subsequent changes in the requirement for licensure upon payment of the fees established under R.S. 37:2354 and compliance with the requirements established pursuant to Subsection B.~~

~~(B) The board shall establish continuing education requirements to be fulfilled prior to the renewal of a license. Failure to fulfill these requirements shall cause the license to lapse. For a period of two years from the date of lapse of the license, the license may be renewed upon proof of fulfilling all continuing education requirements applicable through the date of reinstatement and upon payment of all fees due under R.S. 37:2354.~~

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With regard to the matter of renewal, you ask if a psychologist seeks to renew his lapsed license, does the Board have the authority to reinstate such a license retroactively to cover the time he was out of compliance, or should it be reinstated from the date the requirements of law are met?

Present law does not address whether a license should be reinstated retroactively, but allows for "the right of renewal thereafter", and requires for renewal that continuing education requirements be fulfilled for renewal from the date of the lapse "through the date of reinstatement" and payment of all fees due. It is our opinion that the board, being charged with the enforcement of these laws, has within its authority to enact rules and guidelines providing for the interpretation and enforcement of these laws. Further the board, therefore, can provide by rule whether to allow retroactive reinstatement of licenses, and under what circumstances.

Moreover, we note that R.S. 37:2358 provides that the board "shall issue a license signed by the chairman, vice chairman, and all members of the board whenever a candidate for licensure is found qualified as provided in the Chapter", and a copy of such license will be filed in the office of the secretary of state. Where a license had lapsed, the individual has two years in which his license may be renewed and is required to fulfill all continuing education requirements. Again, the board can provide rules and/or guidelines for said renewal of a lapsed license.

It is our opinion that the board, being charged with enforcing these laws, has within its authority the ability to enact rules and guidelines providing for the interpretation and enforcement of said laws. That being said, the board can provide by rule whether to allow retroactive reinstatement of licenses, and under what circumstances.

We hope this sufficiently answers your inquiry.

Very truly yours,

RICHARD p. IEYOUNG
ATTORNEY GENERAL

BY: Barbara B. Rutledge
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