

# STATE OF NEW YORK

6132

2019-2020 Regular Sessions

## IN ASSEMBLY

February 28, 2019

Introduced by M. of A. McDONALD, MOSLEY, GOTTFRIED, STECK, MORINELLO, JAFFEE, LUPARDO, FAHY, SANTABARBARA, ARROYO, SEAWRIGHT -- Multi-Sponsored by -- M. of A. BLANKENBUSH, CROUCH, HYNDMAN -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to granting licensed psychologists prescriptive authority

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 7601-a of the education law, as added by chapter  
2 676 of the laws of 2002, is amended to read as follows:

3 § 7601-a. Definition of the practice of psychology. 1. The practice of  
4 psychology is the observation, description, evaluation, interpretation,  
5 and modification of behavior for the purpose of preventing or eliminat-  
6 ing symptomatic, maladaptive or undesired behavior; enhancing interper-  
7 sonal relationships, personal, group or organizational effectiveness and  
8 work and/or life adjustment; and improving behavioral health and/or  
9 mental health. The practice includes, but is not limited to psycholog-  
10 ical (including neuropsychological) testing and counseling; psychoanal-  
11 ysis; psychotherapy; the diagnosis and treatment of mental, nervous,  
12 emotional, cognitive or behavioral disorders, disabilities, ailments or  
13 illnesses, alcoholism, substance abuse, disorders of habit or conduct,  
14 the psychological aspects of physical illness, accident, injury or disa-  
15 bility, psychological aspects of learning (including learning disor-  
16 ders); [~~and~~] the use of accepted classification systems; and the  
17 prescription of appropriate drugs in accordance with section seventy-six  
18 hundred one-b of this article. The prescription of drugs by a psychol-  
19 ogist is authorized only in accordance with the provisions of section  
20 seventy-six hundred one-b of this article and the regulations promulgat-  
21 ed pursuant thereto.

22 2. The term "diagnosis and treatment" means the appropriate psycholog-  
23 ical diagnosis and the ordering or providing of treatment according to

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 need. Treatment includes, but is not limited to counseling, psychothera-  
2 py, marital or family therapy, psychoanalysis, and other psychological  
3 interventions, including verbal, behavioral, or other appropriate means  
4 as defined in regulations promulgated by the commissioner; and for  
5 psychologists certified pursuant to section seventy-six hundred one-b of  
6 this article, the prescription of drugs.

7 § 2. The education law is amended by adding a new section 7601-b to  
8 read as follows:

9 § 7601-b. Certification to use therapeutic drugs. 1. Definitions. As  
10 used in this section, the following terms shall have the following mean-  
11 ings:

12 a. "Board" means the state board for psychology.

13 b. "Controlled substance" means any drug substance or immediate  
14 precursor enumerated in schedules 1-5 of the U.S. Drug Enforcement  
15 Administration Controlled Substance Act and as provided for in article  
16 thirty-three of the public health law.

17 c. "Psychologists authorized to prescribe" means any psychologist  
18 licensed pursuant to this article who has undergone specialized educa-  
19 tion and training in preparation for prescriptive practice and who has  
20 passed an examination accepted by the board relevant to establishing  
21 competence for prescribing, and who has received from the board a  
22 certificate granting prescriptive authority, which has not been revoked  
23 or suspended.

24 d. "Clinical experience" means a period of supervised clinical train-  
25 ing and practice in which clinical diagnoses and interventions are  
26 learned and which are conducted and supervised as part of the training  
27 program.

28 e. "Prescription" is an order for a drug, laboratory test, or any  
29 medicine, device or treatment, including controlled substances, such  
30 terms as defined in article one hundred thirty-seven of this title.

31 f. "Prescriptive authority" means the authority to prescribe, adminis-  
32 ter, discontinue and/or distribute without charge, drugs or controlled  
33 substances recognized in or customarily used in the diagnosis, treatment  
34 and management of individuals with psychiatric, mental, cognitive, nerv-  
35 ous, emotional or behavioral disorders, or other procedures directly  
36 related thereto within the scope of practice of psychology in accordance  
37 with rules and regulations adopted by the board.

38 2. Certification. a. The board shall certify licensed psychologists to  
39 exercise prescriptive authority in accordance with the applicable feder-  
40 al laws, and the provisions of article one hundred thirty-seven of this  
41 title and article thirty-three of the public health law.

42 b. The board shall develop and implement procedures for reviewing the  
43 education and training credentials for such certification process, in  
44 accordance with the standards of professional practice.

45 3. Initial application requirements for prescriptive authority. A  
46 psychologist licensed pursuant to this article who applies for prescrip-  
47 tive authority shall demonstrate all of the following by official tran-  
48 script or other official evidence satisfactory to the board:

49 a. The psychologist must hold a current license issued pursuant to  
50 this article to provide health care services as a psychologist in the  
51 state;

52 b. As defined by the board, and consistent with the established poli-  
53 cies of the American Psychological Association for educating and train-  
54 ing psychologists in preparation for prescriptive authority:

55 (i) The psychologist must have completed an organized sequence of  
56 study in an organized program offering intensive didactic education, and

1 including the following core areas of instruction: basic life sciences,  
2 neurosciences, clinical and research pharmacology and psychopharmacolo-  
3 gy, clinical medicine and pathophysiology, physical assessment and labo-  
4 ratory exams, clinical pharmacotherapeutics, research, professional,  
5 ethical and legal issues. The didactic portion of the education shall  
6 consist of an appropriate number of didactic hours to ensure acquisition  
7 of the necessary knowledge and skills to prescribe in a safe and effec-  
8 tive manner; and

9 (ii) The psychologist must have obtained relevant clinical experience  
10 sufficient to attain competency in the psychopharmacological treatment  
11 of a diverse patient population under the direction of qualified practi-  
12 tioners as determined by the board;

13 c. The psychologist must pass an examination developed by a nationally  
14 recognized body (e.g., the American Psychological Association's Practice  
15 Organization's College of Professional Psychology) and approved by the  
16 board.

17 4. Renewal of prescriptive authority. a. The board shall prescribe by  
18 rule a method for the renewal of prescriptive authority at the time of  
19 or in conjunction with the renewal of licenses issued pursuant to this  
20 article.

21 b. Each applicant for renewal of prescriptive authority shall present  
22 satisfactory evidence to the board demonstrating the completion of twen-  
23 ty-five contact hours of continuing education instruction relevant to  
24 prescriptive authority during the previous licensure renewal period.

25 5. Prescribing practices. a. Psychologists authorized to prescribe  
26 shall be authorized to prescribe, administer, discontinue and/or  
27 distribute without charge, drugs or controlled substances recognized in  
28 or customarily used in the diagnosis, treatment and management of indi-  
29 viduals with psychiatric, mental, cognitive, nervous, emotional or  
30 behavioral disorders and relevant to the practice of psychology, or  
31 other procedures directly related thereto within the scope of practice  
32 of psychology in accordance with rules and regulations adopted by the  
33 board.

34 b. No psychologist shall issue a prescription unless the psychologist  
35 holds a valid certificate of prescriptive authority.

36 c. Each prescription issued by a prescribing psychologist shall:

37 (i) Comply with all applicable state and federal laws and regulations  
38 relating to such prescription; and

39 (ii) Be identified as written by the prescribing psychologist in such  
40 manner as determined by the board in accordance with title four of arti-  
41 cle thirty-three of the public health law.

42 d. A record of all prescriptions shall be maintained in the patient's  
43 record.

44 e. A psychologist shall not delegate the authority to prescribe drugs  
45 to any other person.

46 6. Controlled substance prescriptive authority. a. When authorized to  
47 prescribe controlled substances, psychologists authorized to prescribe  
48 shall file in a timely manner their Drug Enforcement Agency registration  
49 and number with the board.

50 b. The board shall maintain current records of every psychologist  
51 authorized to prescribe, including his or her Drug Enforcement Agency  
52 registration and number.

53 7. Interaction with the state board of pharmacy. a. The board shall  
54 transmit to the state board of pharmacy an initial list of psychologists  
55 authorized to prescribe containing the following information:

56 (i) the name of the psychologist;

1 (ii) the psychologist's identification number assigned by the board;  
2 and

3 (iii) the effective date of prescriptive authority.

4 b. The board shall promptly forward to the state board of pharmacy any  
5 additions to the initial list as new certificates are issued.

6 c. The board shall notify the state board of pharmacy in a timely  
7 manner upon termination, suspension or reinstatement of a psychologist's  
8 prescriptive authority.

9 8. Powers and duties of the board. The board shall promulgate rules  
10 and regulations for denying, modifying, suspending or revoking the pres-  
11 criptive authority or license of a psychologist authorized to prescribe.  
12 The board shall also have the power to require remediation of any defi-  
13 ciencies in the training or practice pattern of the medical psychologist  
14 or prescribing psychologist when, in the judgment of the board, such  
15 deficiencies could reasonably be expected to jeopardize the health,  
16 safety or welfare of the public.

17 § 3. This act shall take effect on the first of January next succeed-  
18 ing the date on which it shall have become a law. Effective immediate-  
19 ly, the addition, amendment and/or repeal of any rule or regulation  
20 necessary for the implementation of this act on its effective date are  
21 authorized and directed to be made and completed on or before such  
22 effective date.