STATE OF NEW YORK

560

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed 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:

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

§ 7601-a. Definition of the practice of psychology. 1. The practice of psychology is the observation, description, evaluation, interpretation, and modification of behavior for the purpose of preventing or eliminating symptomatic, maladaptive or undesired behavior; enhancing interpersonal relationships, personal, group or organizational effectiveness and work and/or life adjustment; and improving behavioral health and/or mental health. The practice includes, but is not limited to psychological (including neuropsychological) testing and counseling; psychoanalysis; psychotherapy; the diagnosis and treatment of mental, nervous, emotional, cognitive or behavioral disorders, disabilities, ailments or illnesses, alcoholism, substance abuse, disorders of habit or conduct, the psychological aspects of physical illness, accident, injury or disability, psychological aspects of learning (including learning disorders); [~~and~~] the use of accepted classification systems**; and the prescription of appropriate drugs in accordance with section seventy-six hundred one-b of this article. The prescription of drugs by a psychologist is authorized only in accordance with the provisions of section seventy-six hundred one-b of this article and the regulations promulgated pursuant thereto**.

2. The term "diagnosis and treatment" means the appropriate psychological diagnosis and the ordering or providing of treatment according to need. Treatment includes, but is not limited to counseling, psychothera-

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

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py, marital or family therapy, psychoanalysis, and other psychological interventions, including verbal, behavioral, or other appropriate means as defined in regulations promulgated by the commissioner; and for psychologists certified pursuant to section seventy-six hundred one-b of this article, the prescription of drugs.

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

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

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

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

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

d. "Clinical experience" means a period of supervised clinical training and practice in which clinical diagnoses and interventions are learned and which are conducted and supervised as part of the training program.

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

f. "Prescriptive authority" means the authority to prescribe, administer, discontinue and/or distribute without charge, drugs or controlled substances recognized in or customarily used in the diagnosis, treatment and management of individuals with psychiatric, mental, cognitive, nervous, emotional or behavioral disorders, or other procedures directly related thereto within the scope of practice of psychology in accordance with rules and regulations adopted by the board.

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

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

3. Initial application requirements for prescriptive authority. A psychologist licensed pursuant to this article who applies for prescriptive authority shall demonstrate all of the following by official transcript or other official evidence satisfactory to the board:

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

b. As defined by the board, and consistent with the established policies of the American Psychological Association for educating and training psychologists in preparation for prescriptive authority:

(i) The psychologist must have completed an organized sequence of study in an organized program offering intensive didactic education, and including the following core areas of instruction: basic life sciences,

neurosciences, clinical and research pharmacology and psychopharmacology, clinical medicine and pathophysiology, physical assessment and laboratory exams, clinical pharmacotherapeutics, research, professional, ethical and legal issues. The didactic portion of the education shall consist of an appropriate number of didactic hours to ensure acquisition of the necessary knowledge and skills to prescribe in a safe and effective manner; and

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

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

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

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

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

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

c. Each prescription issued by a prescribing psychologist shall:

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

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

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

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

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

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

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

(i) the name of the psychologist;

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

(iii) the effective date of prescriptive authority.

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

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

8. Powers and duties of the board. The board shall promulgate rules and regulations for denying, modifying, suspending or revoking the prescriptive authority or license of a psychologist authorized to prescribe. The board shall also have the power to require remediation of any deficiencies in the training or practice pattern of the medical psychologist or prescribing psychologist when, in the judgment of the board, such deficiencies could reasonably be expected to jeopardize the health, safety or welfare of the public.

§ 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.