

STATE OF NEW YORK

66--A

2023-2024 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to collaborative prescriptive authority for psychologists

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

1 Section 1. The education law is amended by adding a new section 7601-b
2 to read as follows:

3 § 7601-b. Collaborative prescriptive authority for psychologists. 1.
4 As used in this section, the following terms shall have the following
5 meanings:

6 a. "Prescribing psychologist" means any psychologist licensed pursuant
7 to this article who has undergone specialized education and training in
8 preparation for prescriptive practice and who has passed an examination
9 accepted by the department relevant to establishing competence for
10 prescribing, and who has received from the department a certificate of
11 prescriptive authority, which has not been revoked or suspended.

12 b. "Prescriptive authority" means the authority to prescribe, adminis-
13 ter, discontinue and/or distribute without charge, drugs or controlled
14 substances recognized in or customarily used in the diagnosis, treatment
15 and management of individuals with psychiatric, mental, cognitive, nerv-
16 ous, emotional or behavioral disorders, or other procedures directly
17 related thereto within the scope of practice of psychology in accordance
18 with rules and regulations adopted by the department. Prescriptive
19 authority includes ordering and obtaining necessary laboratory tests,
20 procedures, and diagnostic examinations.

21 c. "Controlled substance" means any drug substance or immediate
22 precursor enumerated in schedules 1-5 of the United States Drug Enforce-

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

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1 ment Administration Controlled Substance Act and as provided for in
2 article thirty-three of the public health law.

3 d. "Conditional prescribing certification" means a two-year clinical
4 prescribing fellowship period to obtain clinical experience sufficient
5 to attain competency in the psychopharmacological treatment of a diverse
6 patient population utilizing a collaborative relationship with a collab-
7 orating clinician and shall include no less than four hundred hours of
8 clinical training seeing at least one hundred individual patients during
9 such time period.

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

13 f. "Psychotropic medication" means drugs or controlled substances that
14 are recognized as customarily used in the diagnosis, treatment, and
15 management of individuals with psychiatric, mental, cognitive, nervous,
16 substance use disorders, emotional or behavioral disorders. Under this
17 section, psychotropic medication does not include narcotics.

18 g. "Collaborating clinician" means a licensed physician, osteopathic
19 physician, nurse practitioner, psychiatric nurse practitioner or clin-
20 ical nurse specialist engaged in a collaborative agreement with a
21 psychologist in the prescribing of psychotropic medication.

22 2. a. A psychologist licensed under this article may apply to the
23 department for conditional prescribing certification if the psychologist
24 meets the following requirements:

25 (1) A current license to practice psychology at the doctoral level in
26 this state;

27 (2) A master's degree in clinical psychopharmacology awarded by a
28 program in a regionally accredited institution of higher education
29 approved by the United States Department of Education as further
30 described in paragraph b of this subdivision;

31 (3) Successful completion of clinical practicum training in physical
32 assessment and pathophysiology of no less than eighty hours by a health
33 care provider licensed to conduct independent physical assessments;

34 (4) A passing score on an examination developed by a nationally recog-
35 nized body, and approved by the department;

36 (5) Possesses malpractice insurance that will cover the applicant
37 during the period the conditional prescribing certificate is in effect;
38 and

39 (6) Meets all other requirements, as determined by rules adopted by
40 the department.

41 b. The necessary prerequisites for the education program shall be
42 determined by the institution that offers such masters level degrees
43 and, in the institution's judgment, shall include sufficient biomedical
44 education to ensure the necessary knowledge and skills to prescribe
45 psychotropic medications in a safe and effective manner. The program
46 shall satisfy the designation requirements of the American Psychological
47 Association for clinical psychopharmacology education and training
48 programs. The program must be established and administered by biomed-
49 ically trained educators and must demonstrate that all content is covered
50 and that students achieve clinical competency in all areas, and shall
51 include at a minimum:

52 (1) Science prerequisites, including human anatomy and human physiol-
53 ogy, and a course in biology;

54 (2) Basic science, including human anatomy, human physiology, biochem-
55 istry, and genetics;

1 (3) Functional neuroscience, including neuroanatomy, neurophysiology,
2 and neurochemistry;

3 (4) Physical examinations, including the measurement and interpreta-
4 tion of vital signs and neurological, cardiovascular, respiratory, abdo-
5 mental, eye, ear, nose, throat, gastrointestinal, genitourinary, integu-
6 mentary, allergic and immunologic, and musculoskeletal examinations;

7 (5) Interpretation of laboratory tests, including therapeutic drug
8 monitoring, blood and urine tests, radiology, electrocardiogram, brain
9 electrophysiology, neuroimaging techniques, and applied genetics;

10 (6) Pathological basis of disease, including pathophysiology of common
11 clinical cardiovascular, respiratory, gastrointestinal, hepatic, neuro-
12 logical, and endocrine conditions;

13 (7) Clinical medicine, including clinical manifestations, differential
14 diagnosis, and laboratory or radiological evaluation of commonly
15 encountered medical conditions, including patients with complex medical
16 needs and comorbidities, and medical emergencies and their management;

17 (8) Clinical neurotherapeutics, including electrophysiology, electro-
18 convulsive therapy and noninvasive interventions, including transcranial
19 magnetic stimulation, neurofeedback, and biofeedback;

20 (9) Systems of care, including coordination of care with other medical
21 specialties, consultations and referrals, and coordination and consulta-
22 tion in long-term care;

23 (10) Pharmacology, including pharmacokinetics and drug delivery
24 systems, pharmacodynamics, neuropharmacology, toxicology, and mechanisms
25 of medication interactions;

26 (11) Clinical pharmacology, including major drug classes and nutri-
27 tional supplements;

28 (12) Psychopharmacology, including sedatives and hypnotics, antide-
29 pressants, antipsychotics, mood stabilizers, anxiolytics, stimulants,
30 medications for drug dependence, medications for drug adverse effects,
31 pediatric psychopharmacology, geriatric psychopharmacology, including
32 medications for cognitive impairment and polypharmacy, issues of diver-
33 sity and cultural competence in pharmacological practice, clinical deci-
34 sion making and standard practice guidelines, and guidelines for
35 prescribing controlled substances;

36 (13) Psychopharmacology research, including phases of drug develop-
37 ment, clinical trials in psychiatry, and critical evaluation of
38 evidence; and

39 (14) Professional, ethical, and legal issues, including conflicts of
40 interest and relationships with the industry, scope of practice issues,
41 diversity and equity issues related to treatment access and adherence
42 and documentation, including nomenclature, abbreviations, and
43 prescription writing.

44 c. The department may waive certain requirements of paragraph b of
45 this subdivision for applicants who have obtained relevant training and
46 experience including psychologists who are dually licensed as physi-
47 cians, nurse practitioners, or other health professionals with compara-
48 ble prescriptive authority in this state.

49 d. A conditional prescribing certification shall be valid for a period
50 of two years, at the end of which the holder may re-apply pursuant to
51 the requirements of paragraph a of this subdivision. A psychologist with
52 a conditional prescription certification may prescribe psychotropic
53 medications but only when maintaining an ongoing collaborative relation-
54 ship with a qualified clinician who oversees the patient's general
55 medical care to ensure that necessary medical examinations are
56 conducted, the psychotropic medication is appropriate for the patient's

1 medical condition and significant changes in the patient's medical or
2 psychological condition are discussed, and subject to the following
3 conditions:

4 (1) the psychologist shall continue to hold a current license to prac-
5 tice psychology in New York and continue to maintain malpractice insur-
6 ance;

7 (2) the psychologist shall notify the department of the name of the
8 psychologist's collaborating clinician; and

9 (3) the collaborating clinician shall notify the clinician's own
10 licensing board of the name of each psychologist utilizing a collabora-
11 tive agreement with the collaborating clinician.

12 e. The ongoing collaborative relationship shall be maintained pursuant
13 to guidelines developed by the department and the state board for
14 psychology, which shall optimize patient care.

15 f. The guidelines shall ensure that the prescribing psychologist or
16 the psychologist with a conditional prescribing certification and the
17 collaborating clinician coordinate, and collaborate on, the care of the
18 patient to provide optimal care. Nothing in this paragraph shall require
19 a prescribing psychologist or psychologist with a conditional prescrib-
20 ing certification to give prior notice to or obtain prior approval from
21 a collaborating clinician to prescribe psychotropic medication to a
22 patient with whom the prescribing psychologist has established a
23 psychologist-patient relationship; provided that the psychologist
24 provides written notice of the prescription to the collaborating clini-
25 cian within twenty-four hours of its issuance to such patient.

26 g. A collaborating clinician shall not be liable for the acts of a
27 psychologist with whom there is a collaborative relationship unless the
28 injury or loss arises from those acts under the direction and control of
29 the collaborating clinician.

30 3. a. A psychologist licensed under this article may apply for a
31 certificate of prescriptive authority, and the department shall issue
32 such prescriptive authority certification, if the applicant meets the
33 following requirements:

34 (1) Possesses a conditional prescribing certification and has success-
35 fully completed two years of prescribing psychotropic medication under
36 such certification. An applicant for a prescription certificate who
37 specializes in the psychological care of children, elderly persons, or
38 persons with comorbid psychological conditions shall complete at least
39 one year prescribing psychotropic medications to such populations under
40 such conditional prescribing certification;

41 (2) Holds a current license to practice psychology in this state;

42 (3) Possesses malpractice insurance that will cover the applicant as a
43 prescribing psychologist; and

44 (4) Meets all other requirements, as determined by rules adopted by
45 the board, for obtaining a certificate of prescriptive authority.

46 b. A prescribing psychologist may prescribe psychotropic medication
47 pursuant to the provisions of this title subject to the following condi-
48 tions:

49 (1) Continues to hold a current license to practice psychology in this
50 state, maintains a prescriptive authority certification issued by the
51 department, and maintains malpractice insurance;

52 (2) Annually satisfies the continuing education requirements for
53 prescribing psychologists, as determined by the department, which shall
54 be no fewer than twenty-five hours each year; and

55 (3) Complies with any other rules adopted by the department.

c. The department may grant prescriptive authority certification to an applicant who has a current and unrestricted license to practice psychology and a current and unrestricted certification of prescriptive authority from another state, or training from the United States Department of Defense demonstration project or other similar program developed and operated by any branch of the armed forces that imposes substantially equivalent educational and training requirements as those contained in this chapter and required by the department.

4. a. The department 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 department demonstrating the completion of twenty-five hours of continuing education instruction relevant to prescriptive authority during the licensure renewal period.

5. a. Prescribing psychologists shall be authorized to prescribe, administer, discontinue 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 department.

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

c. Each prescription issued by a prescribing psychologist shall:

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

(2) Be identified as written by the prescribing psychologist in such manner as determined by the department 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. a. Prescribing psychologists shall file in a timely manner their Drug Enforcement Agency registration and number with the department.

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

7. The department shall promulgate rules and regulations for denying, modifying, suspending or revoking the prescriptive authority or license of a psychologist authorized to prescribe. The department 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 department, such deficiencies could reasonably be expected to jeopardize the health, safety or welfare of the public.

§ 2. Section 7602 of the education law, as added by chapter 987 of the laws of 1971, is amended to read as follows:

§ 7602. State board for psychology. A state board for psychology shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than eleven psychologists licensed

1 in this state, at least two of whom shall be prescribing psychologists.
2 An executive secretary to the board shall be appointed by the board of
3 regents upon the recommendation of the commissioner and shall be a
4 psychologist, licensed in this state.

5 § 3. Subdivision 1 of section 7606 of the education law, as added by
6 chapter 676 of the laws of 2002, is amended to read as follows:

7 1. prescribing or administering drugs as defined in this chapter as a
8 treatment, therapy, or professional service in the practice of his or
9 her profession, except as provided under section seventy-six hundred
10 one-b of this article; or

11 § 4. This act shall take effect on the first of January next succeed-
12 ing the date on which it shall have become a law. Effective immediate-
13 ly, the addition, amendment and/or repeal of any rule or regulation
14 necessary for the implementation of this act on its effective date are
15 authorized and directed to be made and completed on or before such
16 effective date.