

A-Engrossed
Senate Bill 1046

Ordered by the Senate February 12
Including Senate Amendments dated February 12

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Health Care)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Authorizes Oregon Medical Board to issue certificate of prescriptive authority to certain licensed psychologists and sets forth requirements and procedure for issuance of certificate.

Directs board to adopt rules for regulation of prescribing psychologists with concurrence of State Board of Psychologist Examiners.

Establishes Committee on Prescribing Psychologists to review applications, [*and proposed clinical training programs, adopt formulary and*] make recommendations to Oregon Medical Board **and report on use of prescriptive authority by prescribing psychologists.**

Creates Task Force on Prescribing Psychologists. Sunsets task force on June 30, 2012.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to prescriptive authority for licensed psychologists; creating new provisions; amending ORS
3 675.085 and 677.265; and declaring an emergency.

4 Whereas the Legislative Assembly finds that it is in the public's best interest to provide greater
5 access to the full range of mental health treatments; and

6 Whereas doctoral clinical psychologists desire to expand their scope of practice to provide a
7 greater range of mental health treatment options; and

8 Whereas the Legislative Assembly finds that doctoral clinical psychologists with appropriate
9 training should be permitted to prescribe drugs to patients; now, therefore,

10 **Be It Enacted by the People of the State of Oregon:**

11 **SECTION 1. As used in sections 1 to 6 of this 2010 Act:**

12 (1) "Collaboration" means a process that involves two or more persons working together,
13 each contributing that person's respective area of expertise to provide more comprehensive
14 care than one person alone can provide.

15 (2) "Drug" means an article, other than food:

16 (a) Intended for use in the diagnosis, cure, mitigation, treatment or prevention of mental
17 and emotional disorders; and

18 (b) Intended to affect a structure or function of the human body.

19 (3) "Licensed psychologist" means a person licensed to practice psychology under the
20 provisions of ORS 675.010 to 675.150.

21 (4) "Prescribe" has the meaning given that term in ORS 677.010.

22 (5) "Prescribing psychologist" means a licensed psychologist who has been issued a cer-
23 tificate of prescriptive authority under section 3 of this 2010 Act.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (6) "Prescribing psychologist formulary" means the list of drugs, and the protocols for
2 use of the drugs, adopted by the Oregon Medical Board under section 3 of this 2010 Act.

3 **SECTION 2.** (1) There is established within the Oregon Medical Board a Committee on
4 **Prescribing Psychologists.** The term of office for each member is three years, but each
5 member serves at the pleasure of the appointing authority. Before the expiration of the term
6 of a member, the appointing authority shall appoint a successor whose term begins on July
7 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause,
8 the appointing authority shall make an appointment to become immediately effective for the
9 unexpired term.

10 (2) The committee consists of seven members appointed as follows:

11 (a) The State Board of Psychologist Examiners shall appoint four members as follows:

12 (A) Three licensed psychologists; and

13 (B) One licensed psychologist who is a member of the State Board of Psychologist Ex-
14 aminers, who shall serve as chair of the committee.

15 (b) The Oregon Medical Board shall appoint three licensed physicians, one of whom is a
16 psychiatrist.

17 (3) One of the members of the committee must have expertise in the treatment of chil-
18 dren.

19 (4) The committee shall:

20 (a) Make recommendations to the Oregon Medical Board on educational requirements,
21 clinical training requirements, standards, examinations and continuing education for pre-
22 scribing psychologists;

23 (b) Review and make recommendations to the Oregon Medical Board and the State Board
24 of Psychologist Examiners on applications for certificates of prescriptive authority;

25 (c) Make recommendations to the Oregon Medical Board and the State Board of Psy-
26 chologist Examiners on the prescribing psychologist formulary and annual formulary re-
27 visions;

28 (d) Make recommendations to the Oregon Medical Board on the disposition of complaints
29 about prescribing psychologists; and

30 (e) Report to the Oregon Medical Board and the State Board of Psychologist Examiners
31 regarding the use of prescriptive authority by prescribing psychologists.

32 (5) A majority of the members of the committee constitutes a quorum for the transaction
33 of business.

34 (6) Official action by the committee requires the approval of a majority of the members
35 of the committee.

36 (7) The committee may seek the assistance of a neutral third party in resolving disa-
37 greements among the members and facilitating the collaborative process.

38 (8) The committee shall meet at times and places specified by the call of the chairperson
39 or a majority of the members of the committee.

40 (9) The committee may adopt rules necessary for the operation of the committee.

41 (10) The Oregon Medical Board shall provide staff support to the committee.

42 (11) Members of the committee are not entitled to compensation, but may be reimbursed
43 from funds available to the Oregon Medical Board for actual and necessary travel and other
44 expenses incurred by them in the performance of their official duties in the manner and
45 amount provided in ORS 292.495.

1 **SECTION 3.** (1) Pursuant to the procedure set forth in section 4 of this 2010 Act, the
2 Oregon Medical Board may issue a certificate of prescriptive authority to a licensed psy-
3 chologist that authorizes the psychologist to prescribe drugs that are listed in the prescrib-
4 ing psychologist formulary established under this section.

5 (2) A licensed psychologist who has a doctorate degree may apply to the board for a
6 certificate of prescriptive authority if the psychologist:

7 (a)(A) Has completed an educational program approved by the board after the board has
8 taken into account the recommendations of the Committee on Prescribing Psychologists
9 provided under section 2 of this 2010 Act; or

10 (B) Has completed the United States Department of Defense Psychopharmacology Dem-
11 onstration Project or a similar program developed and operated by any branch of the Armed
12 Forces of the United States;

13 (b) Has completed a clinical training program approved by the board after the board has
14 taken into account the recommendations of the Committee on Prescribing Psychologists
15 provided under section 2 of this 2010 Act;

16 (c) Has passed a national certification examination as specified by the board by rule; and

17 (d) Pays fees required by the board by rule.

18 (3) A certificate of prescriptive authority issued under this section expires every two
19 years. With the concurrence of the State Board of Psychologist Examiners, the Oregon
20 Medical Board shall adopt rules setting forth the requirements and fee for renewal of the
21 certificate.

22 (4) Taking into account the recommendations of the Committee on Prescribing Psychol-
23 ogists made under section 2 of this 2010 Act, and with the concurrence of the State Board
24 of Psychologist Examiners, the Oregon Medical Board shall adopt rules:

25 (a) Setting educational requirements, clinical training requirements, standards, exam-
26 inations and continuing education requirements for prescribing psychologists; and

27 (b) Establishing the prescribing psychologist formulary and annual formulary revisions.

28 **SECTION 4.** (1) No later than 30 days after the Oregon Medical Board receives an appli-
29 cation for a certificate of prescriptive authority under section 3 of this 2010 Act, the board
30 shall forward the application to the Committee on Prescribing Psychologists established in
31 section 2 of this 2010 Act.

32 (2) No later than 90 days after the Oregon Medical Board forwards the application to the
33 committee, the committee shall review the application and recommend in writing to the
34 Oregon Medical Board and the State Board of Psychologist Examiners the approval or denial
35 of the application.

36 (3) No later than 60 days after the committee sends its recommendation on the applica-
37 tion to the Oregon Medical Board and the State Board of Psychologist Examiners, the
38 Oregon Medical Board and the State Board of Psychologist Examiners shall accept or reject
39 the recommendation. The State Board of Psychologist Examiners shall notify the Oregon
40 Medical Board of its decision.

41 (4)(a) If the committee recommends approval of the application and the Oregon Medical
42 Board and the State Board of Psychologist Examiners accept the recommendation, the
43 Oregon Medical Board shall issue the certificate of prescriptive authority no later than 60
44 days after the Oregon Medical Board and the State Board of Psychologist Examiners accept
45 the recommendation.

1 (b) If the Oregon Medical Board refuses to issue a certificate of prescriptive authority
2 based on the recommendation of the committee or based on the rejection of the committee's
3 recommendation to approve the application by the Oregon Medical Board or the State Board
4 of Psychologist Examiners, the applicant may request a contested case hearing under ORS
5 chapter 183.

6 (c) If one board accepts the committee's recommendation to approve the application and
7 the other board rejects the committee's recommendation to approve the application, the ap-
8 plicant may request a contested case hearing under paragraph (b) of this subsection or the
9 applicant may request that the boards mediate their differences in accordance with ORS
10 183.502.

11 **SECTION 5.** (1)(a) In the manner prescribed by ORS chapter 183 for contested cases, the
12 Oregon Medical Board may deny, suspend, limit or revoke a certificate of prescriptive au-
13 thority upon proof of a prescribing psychologist's inappropriate use of prescriptive authority.

14 (b) When the board receives a complaint about a prescribing psychologist, the board shall
15 notify the State Board of Psychologist Examiners and forward the complaint to the Com-
16 mittee on Prescribing Psychologists established in section 2 of this 2010 Act for a recom-
17 mendation on disciplinary action. The Oregon Medical Board may accept or reject the
18 recommendation of the committee. The Oregon Medical Board shall notify the State Board
19 of Psychologist Examiners of its decision.

20 (2) Except as provided in subsection (1) of this section, the Oregon Medical Board may
21 not take disciplinary action against a prescribing psychologist.

22 (3) Disciplinary action by the Oregon Medical Board under subsection (1) of this section
23 is grounds for discipline of the prescribing psychologist by the State Board of Psychologist
24 Examiners under ORS 675.070 and 675.085.

25 **SECTION 6.** (1) The Oregon Medical Board, with the concurrence of the State Board of
26 Psychologist Examiners, shall adopt rules requiring a prescribing psychologist to maintain
27 an ongoing collaboration with the health care professional who oversees a patient's medical
28 care to ensure that:

29 (a) Necessary medical examinations are conducted;

30 (b) The prescribed drug is appropriate for the patient's medical condition; and

31 (c) The prescribing psychologist and the health care professional discuss, in a timely
32 manner, any significant changes in the patient's medical or psychological condition.

33 (2) The prescribing psychologist and the health care professional shall each document the
34 collaboration under subsection (1) of this section in the clinical records of the patient.

35 (3) A health care professional who collaborates with a prescribing psychologist as re-
36 quired by rules adopted under this section is not liable for any injury resulting from the care
37 provided by the prescribing psychologist that was the subject of the collaboration, unless the
38 injury results from the gross negligence or reckless, wanton or intentional misconduct of the
39 health care professional.

40 **SECTION 7.** ORS 675.085 is amended to read:

41 675.085. (1) Upon receipt of a complaint under ORS 675.010 to 675.150, the State Board of Psy-
42 chologist Examiners shall conduct an investigation as described under ORS 676.165.

43 (2) If the board's investigation reveals that a psychologist who has a certificate of
44 prescriptive authority issued under section 3 of this 2010 Act has improperly used the
45 psychologist's prescriptive authority, the board shall notify the Oregon Medical Board and

1 **the Committee on Prescribing Psychologists established in section 2 of this 2010 Act. The**
2 **State Board of Psychologist Examiners may also impose disciplinary action as permitted**
3 **under ORS 675.070.**

4 [(2)] (3) Where the board proposes to refuse to issue a license or to impose any disciplinary
5 action under ORS 675.070, opportunity for hearing shall be accorded as provided in ORS chapter 183.
6 The board shall render its decision within 30 days after the hearing.

7 [(3)] (4) Adoption of rules, conduct of hearings, issuance of orders and judicial review of rules
8 and orders shall be as provided in ORS chapter 183.

9 **SECTION 8.** ORS 677.265 is amended to read:

10 677.265. In addition to any other powers granted by this chapter, the Oregon Medical Board
11 may:

12 (1) Adopt necessary and proper rules for administration of this chapter including but not limited
13 to:

14 (a) Establishing fees and charges to carry out its legal responsibilities, subject to prior approval
15 by the Oregon Department of Administrative Services and a report to the Emergency Board prior
16 to adopting the fees and charges. The fees and charges shall be within the budget authorized by the
17 Legislative Assembly as that budget may be modified by the Emergency Board. The fees and charges
18 established under this section may not exceed the cost of administering the program or the purpose
19 for which the fee or charge is established, as authorized by the Legislative Assembly for the Oregon
20 Medical Board's budget, or as modified by the Emergency Board or future sessions of the Legislative
21 Assembly.

22 (b) Establishing standards and tests to determine the moral, intellectual, educational, scientific,
23 technical and professional qualifications required of applicants for licenses under this chapter.

24 (c) Enforcing the provisions of this chapter and exercising general supervision over the practice
25 of medicine and podiatry within this state. In determining whether to discipline a licensee for a
26 standard of care violation, the Oregon Medical Board shall determine whether the licensee used that
27 degree of care, skill and diligence that is used by ordinarily careful physicians or podiatric physi-
28 cians and surgeons in the same or similar circumstances in the community of the physician or
29 podiatric physician and surgeon or a similar community.

30 (2) Issue, deny, suspend and revoke licenses and limited licenses, assess costs of proceedings and
31 fines and place licensees on probation as provided in this chapter.

32 **(3) Issue, deny, suspend, limit and revoke certificates of prescriptive authority for li-**
33 **censed psychologists as provided in sections 3 and 5 of this 2010 Act.**

34 **(4) With the concurrence of the State Board of Psychologist Examiners, adopt rules for**
35 **administering the requirements of sections 3, 4, 5 and 6 of this 2010 Act relating to pre-**
36 **scribing psychologists.**

37 [(3)] (5) Use the gratuitous services and facilities of private organizations to receive the assist-
38 ance and recommendations of the organizations in administering this chapter.

39 [(4)] (6) Make its personnel and facilities available to other regulatory agencies of this state,
40 or other bodies interested in the development and improvement of the practice of medicine or
41 podiatry in this state, upon terms and conditions for reimbursement as are agreed to by the Oregon
42 Medical Board and the other agency or body.

43 [(5)] (7) Appoint examiners, who need not be members of the Oregon Medical Board, and employ
44 or contract with the American Public Health Association or the National Board of Medical Exam-
45 iners or other organizations, agencies and persons to prepare examination questions and score ex-

1 amination papers.

2 [(6)] (8) Determine the schools, colleges, universities, institutions and training acceptable in
3 connection with licensing under this chapter. All residency, internship and other training programs
4 carried on in this state by any hospital, institution or medical facility shall be subject to approval
5 by the Oregon Medical Board. The board shall accept the approval by the American Osteopathic
6 Association or the American Medical Association in lieu of approval by the board.

7 [(7)] (9) Prescribe the time, place, method, manner, scope and subjects of examinations under
8 this chapter.

9 [(8)] (10) Prescribe all forms that it considers appropriate for the purposes of this chapter, and
10 require the submission of photographs and relevant personal history data by applicants for licensure
11 under this chapter.

12 [(9)] (11) For the purpose of requesting a state or nationwide criminal records check under ORS
13 181.534, require the fingerprints of a person who is:

- 14 (a) Applying for a license that is issued by the board;
- 15 (b) Applying for renewal of a license that is issued by the board; or
- 16 (c) Under investigation by the board.

17 [(10)] (12) Administer oaths, issue notices and subpoenas in the name of the board, enforce
18 subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such other acts as
19 are reasonably necessary to carry out its duties under this chapter.

20 **SECTION 9. (1) There is created the Task Force on Prescribing Psychologists, consisting**
21 **of six members as follows:**

22 (a) **Three licensed physicians, at least one of whom must be a psychiatrist, appointed by**
23 **the Oregon Medical Board; and**

24 (b) **Three licensed psychologists, at least one of whom must have a doctorate in clinical**
25 **psychology, appointed by the State Board of Psychologist Examiners.**

26 (2) **The task force shall:**

27 (a) **Develop recommendations on the educational requirements, curriculum, clinical**
28 **training and standards, including standards for prescribing drugs to special populations, that**
29 **should be required to grant clinical psychologists the authority to prescribe psychotropic**
30 **drugs within a clinical psychology practice; and**

31 (b) **Report its recommendations to the Seventy-sixth Legislative Assembly in the manner**
32 **provided in ORS 192.245 no later than March 1, 2011.**

33 (3) **A majority of the members of the task force constitutes a quorum for the transaction**
34 **of business.**

35 (4) **Official action by the task force requires the approval of a majority of the members**
36 **of the task force.**

37 (5) **If there is a vacancy for any cause, the appointing authority shall make an appoint-**
38 **ment to become immediately effective.**

39 (6) **The task force shall meet at times and places specified by a majority of the members**
40 **of the task force.**

41 (7) **The task force may adopt rules necessary for the operation of the task force.**

42 (8) **The Oregon Medical Board and the State Board of Psychologist Examiners shall pro-**
43 **vide staff support to the task force.**

44 (9) **Members of the task force are not entitled to compensation or reimbursement of ex-**
45 **penses and serve as volunteers on the task force.**

1 **(10) The Oregon Medical Board and the State Board of Psychologist Examiners may ac-**
2 **cept gifts, grants or contributions from any public or private source for the purpose of car-**
3 **rying out this section.**

4 **SECTION 10.** Section 9 of this 2010 Act is repealed on June 30, 2012.

5 **SECTION 11.** Notwithstanding the term of office specified by section 2 of this 2010 Act,
6 **the members first appointed to the Committee on Prescribing Psychologists shall determine**
7 **by lot at the first meeting of the committee the initial terms of office for committee mem-**
8 **bers as follows:**

9 **(1) Two shall serve for terms ending June 30, 2011.**

10 **(2) Two shall serve for terms ending June 30, 2012.**

11 **(3) Three shall serve for terms ending June 30, 2013.**

12 **SECTION 12.** Sections 3, 4, 5 and 6 of this 2010 Act and the amendments to ORS 675.085
13 **and 677.265 by sections 7 and 8 of this 2010 Act become operative on July 1, 2011.**

14 **SECTION 13.** The Oregon Medical Board may take any action before the operative date
15 **specified in section 12 of this 2010 Act that is necessary for the board to exercise, on and**
16 **after the operative date specified in section 12 of this 2010 Act, all of the duties, functions**
17 **and powers conferred on the board by sections 3, 4, 5 and 6 of this 2010 Act and the amend-**
18 **ments to ORS 675.085 and 677.265 by sections 7 and 8 of this 2010 Act.**

19 **SECTION 14.** This 2010 Act being necessary for the immediate preservation of the public
20 **peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect**
21 **on its passage.**

22