

# Senate Bill 1046

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## 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 **as introduced**.

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.

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 intent of this legislation is to support the seamless integration of mental and  
5 medical health services by promoting effective collaboration between independent health care dis-  
6 ciplines and practitioners within those disciplines; now, therefore,

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

### **SECTION 1. As used in sections 1 to 7 of this 2010 Act:**

8  
9 (1) **"Collaboration" means a process that involves two or more persons working together,**  
10 **each contributing that person's respective area of expertise to provide more comprehensive**  
11 **care than one person alone can provide.**

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

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

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

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

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

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

21 (6) **"Prescribing psychologist formulary" means the list of drugs, and the protocols for**  
22 **use of the drugs, adopted by the Committee on Prescribing Psychologists under section 2 of**  
23 **this 2010 Act.**

24 **SECTION 2. (1) There is established within the Oregon Medical Board a Committee on**  
25 **Prescribing Psychologists. The term of office for each member is three years, but each**  
26 **member serves at the pleasure of the appointing authority. Before the expiration of the term**  
27 **of a member, the appointing authority shall appoint a successor whose term begins on July**

**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 **1 next following. A member is eligible for reappointment. If there is a vacancy for any cause,**  
 2 **the appointing authority shall make an appointment to become immediately effective for the**  
 3 **unexpired term.**

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

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

6 **(A) Three licensed psychologists; and**

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

9 **(b) The Oregon Medical Board shall appoint three physicians, one of whom is a psychia-**  
 10 **trist.**

11 **(3) One of the members of the committee must have expertise in the treatment of chil-**  
 12 **dren.**

13 **(4) The committee shall:**

14 **(a) Review and make recommendations to the Oregon Medical Board on clinical training**  
 15 **programs proposed by applicants for certificates of prescriptive authority.**

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

18 **(c) Develop and establish the prescribing psychologist formulary and annual formulary**  
 19 **revisions;**

20 **(d) Develop and make recommendations to the Oregon Medical Board regarding stan-**  
 21 **dards, examination and continuing education for prescribing psychologists;**

22 **(e) Make recommendations to the Oregon Medical Board on the disposition of complaints**  
 23 **about prescribing psychologists; and**

24 **(f) Report to the Oregon Medical Board and the State Board of Psychologist Examiners**  
 25 **regarding the use of prescriptive authority by prescribing psychologists.**

26 **(5) A majority of the members of the committee constitutes a quorum for the transaction**  
 27 **of business.**

28 **(6) Official action by the committee requires the approval of a majority of the members**  
 29 **of the committee.**

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

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

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

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

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

40 **SECTION 3. (1) Pursuant to the procedure set forth in section 5 of this 2010 Act, the**  
 41 **Oregon Medical Board may issue a certificate of prescriptive authority to a licensed psy-**  
 42 **chologist that authorizes the psychologist to prescribe drugs that are listed in the prescrib-**  
 43 **ing psychologist formulary developed and established under section 2 of this 2010 Act.**

44 **(2) A licensed psychologist may apply to the board for a certificate of prescriptive au-**  
 45 **thority if the psychologist:**

1 (a)(A) Has a master's degree in clinical psychopharmacology, including training in phys-  
2 ical assessment, pathophysiology, psychopharmacology and clinical management, from an  
3 institution accredited by a regional accreditation organization recognized by the United  
4 States Department of Education; or

5 (B) Has successfully completed the United States Department of Defense  
6 Psychopharmacology Demonstration Project or a similar program developed and operated by  
7 any branch of the Armed Forces of the United States;

8 (b) Has completed a clinical training program approved by the board after the board has  
9 taken into account the recommendation of the Committee on Prescribing Psychologists pro-  
10 vided under section 4 of this 2010 Act;

11 (c) Has passed a national certification examination in psychopharmacology as specified  
12 by the board by rule; and

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

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

18 (4) Taking into account the recommendations of the Committee on Prescribing Psychol-  
19 ogists made under section 2 of this 2010 Act, and with the concurrence of the State Board  
20 of Psychologist Examiners, the Oregon Medical Board shall adopt rules setting standards and  
21 continuing education requirements for prescribing psychologists.

22 (5) The Oregon Medical Board shall provide a report on the practice of prescribing psy-  
23 chologists to a legislative committee related to health care on or before March 31 of each  
24 odd-numbered year.

25 **SECTION 4.** (1) The clinical training program for a prescribing psychologist required by  
26 section 3 of this 2010 Act must include 18 months of training with a longitudinal outpatient  
27 experience that:

28 (a) Includes the following components, which may be completed concurrently:

29 (A) At least one month of clinical experience in a general pediatric setting;

30 (B) At least one month of clinical experience in a general geriatric setting;

31 (C) At least one month of clinical experience in an addiction treatment setting;

32 (D) At least one month of clinical experience in a pain treatment setting; and

33 (E) At least one month of clinical experience in a neurology setting;

34 (b) Occurs in the following settings:

35 (A) At least three months in an inpatient psychiatry setting;

36 (B) At least three months in a public mental health treatment setting;

37 (C) At least six weeks in a mental health consult services setting; and

38 (D) At least six months in a primary care mental health setting; and

39 (c) Is supervised by a physician licensed by the Oregon Medical Board.

40 (2) The Committee on Prescribing Psychologists established in section 2 of this 2010 Act  
41 shall review proposed clinical training programs that meet the requirements of subsection  
42 (1) of this section on an individual basis and recommend to the Oregon Medical Board  
43 whether to accept or reject the proposed clinical training program, taking into account each  
44 applicant's experience and other qualifications.

45 (3) A psychologist who plans to apply for a certificate of prescriptive authority may

1 submit a proposed clinical training program to the committee, and the committee may pro-  
2 vide its recommendation on the clinical training program to the Oregon Medical Board before  
3 the prospective applicant files the application.

4 **SECTION 5.** (1) No later than 30 days after the Oregon Medical Board receives an appli-  
5 cation for a certificate of prescriptive authority under section 3 of this 2010 Act, the board  
6 shall forward the application to the Committee on Prescribing Psychologists established in  
7 section 2 of this 2010 Act.

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

12 (3) No later than 60 days after the committee sends its recommendation on the applica-  
13 tion to the Oregon Medical Board and the State Board of Psychologist Examiners, the  
14 Oregon Medical Board and the State Board of Psychologist Examiners shall accept or reject  
15 the recommendation. The State Board of Psychologist Examiners shall notify the Oregon  
16 Medical Board of its decision.

17 (4)(a) If the committee recommends approval of the application and the Oregon Medical  
18 Board and the State Board of Psychologist Examiners accept the recommendation, the  
19 Oregon Medical Board shall issue the certificate of prescriptive authority no later than 60  
20 days after the Oregon Medical Board and the State Board of Psychologist Examiners accept  
21 the recommendation.

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

27 (c) If one board accepts the committee's recommendation to approve the application and  
28 the other board rejects the committee's recommendation to approve the application, the ap-  
29 plicant may request a contested case hearing under paragraph (b) of this subsection or the  
30 applicant may request that the boards mediate their differences in accordance with ORS  
31 183.502.

32 **SECTION 6.** (1)(a) In the manner prescribed by ORS chapter 183 for contested cases, the  
33 Oregon Medical Board may deny, suspend, limit or revoke a certificate of prescriptive au-  
34 thority upon proof of a prescribing psychologist's inappropriate use of prescriptive authority.

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

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

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

1       **SECTION 7. (1) The Oregon Medical Board, with the concurrence of the State Board of**  
 2 **Psychologist Examiners, shall adopt rules requiring a prescribing psychologist to maintain**  
 3 **an ongoing collaboration with the health care professional who oversees a patient’s medical**  
 4 **care to ensure that:**

5           **(a) Necessary medical examinations are conducted;**

6           **(b) The prescribed drug is appropriate for the patient’s medical condition; and**

7           **(c) The prescribing psychologist and the health care professional discuss, in a timely**  
 8 **manner, any significant changes in the patient’s medical or psychological condition.**

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

11       **SECTION 8.** ORS 675.085 is amended to read:

12       675.085. (1) Upon receipt of a complaint under ORS 675.010 to 675.150, the State Board of Psy-  
 13 **chologist Examiners shall conduct an investigation as described under ORS 676.165.**

14       **(2) If the board’s investigation reveals that a psychologist who has a certificate of**  
 15 **prescriptive authority issued under section 3 of this 2010 Act has improperly used the**  
 16 **psychologist’s prescriptive authority, the board shall notify the Oregon Medical Board and**  
 17 **the Committee on Prescribing Psychologists established in section 2 of this 2010 Act. The**  
 18 **State Board of Psychologist Examiners may also impose disciplinary action as permitted**  
 19 **under ORS 675.070.**

20       [(2)] **(3) Where the board proposes to refuse to issue a license or to impose any disciplinary**  
 21 **action under ORS 675.070, opportunity for hearing shall be accorded as provided in ORS chapter 183.**  
 22 **The board shall render its decision within 30 days after the hearing.**

23       [(3)] **(4) Adoption of rules, conduct of hearings, issuance of orders and judicial review of rules**  
 24 **and orders shall be as provided in ORS chapter 183.**

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

26       677.265. In addition to any other powers granted by this chapter, the Oregon Medical Board  
 27 **may:**

28       **(1) Adopt necessary and proper rules for administration of this chapter including but not limited**  
 29 **to:**

30           **(a) Establishing fees and charges to carry out its legal responsibilities, subject to prior approval**  
 31 **by the Oregon Department of Administrative Services and a report to the Emergency Board prior**  
 32 **to adopting the fees and charges. The fees and charges shall be within the budget authorized by the**  
 33 **Legislative Assembly as that budget may be modified by the Emergency Board. The fees and charges**  
 34 **established under this section may not exceed the cost of administering the program or the purpose**  
 35 **for which the fee or charge is established, as authorized by the Legislative Assembly for the Oregon**  
 36 **Medical Board’s budget, or as modified by the Emergency Board or future sessions of the Legislative**  
 37 **Assembly.**

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

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

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

3 (3) **Issue, deny, suspend, limit and revoke certificates of prescriptive authority for li-**  
 4 **icensed psychologists as provided in sections 3 and 6 of this 2010 Act.**

5 (4) **With the concurrence of the State Board of Psychologist Examiners, adopt rules for**  
 6 **administering the requirements of sections 3, 5, 6 and 7 of this 2010 Act relating to pre-**  
 7 **scribing psychologists.**

8 [(3)] (5) Use the gratuitous services and facilities of private organizations to receive the assist-  
 9 ance and recommendations of the organizations in administering this chapter.

10 [(4)] (6) Make its personnel and facilities available to other regulatory agencies of this state,  
 11 or other bodies interested in the development and improvement of the practice of medicine or  
 12 podiatry in this state, upon terms and conditions for reimbursement as are agreed to by the Oregon  
 13 Medical Board and the other agency or body.

14 [(5)] (7) Appoint examiners, who need not be members of the Oregon Medical Board, and employ  
 15 or contract with the American Public Health Association or the National Board of Medical Exam-  
 16 iners or other organizations, agencies and persons to prepare examination questions and score ex-  
 17 amination papers.

18 [(6)] (8) Determine the schools, colleges, universities, institutions and training acceptable in  
 19 connection with licensing under this chapter. All residency, internship and other training programs  
 20 carried on in this state by any hospital, institution or medical facility shall be subject to approval  
 21 by the Oregon Medical Board. The board shall accept the approval by the American Osteopathic  
 22 Association or the American Medical Association in lieu of approval by the board.

23 [(7)] (9) Prescribe the time, place, method, manner, scope and subjects of examinations under  
 24 this chapter.

25 [(8)] (10) Prescribe all forms that it considers appropriate for the purposes of this chapter, and  
 26 require the submission of photographs and relevant personal history data by applicants for licensure  
 27 under this chapter.

28 [(9)] (11) For the purpose of requesting a state or nationwide criminal records check under ORS  
 29 181.534, require the fingerprints of a person who is:

- 30 (a) Applying for a license that is issued by the board;
- 31 (b) Applying for renewal of a license that is issued by the board; or
- 32 (c) Under investigation by the board.

33 [(10)] (12) Administer oaths, issue notices and subpoenas in the name of the board, enforce  
 34 subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such other acts as  
 35 are reasonably necessary to carry out its duties under this chapter.

36 **SECTION 10. Notwithstanding the term of office specified by section 2 of this 2010 Act,**  
 37 **the members first appointed to the Committee on Prescribing Psychologists shall determine**  
 38 **by lot at the first meeting of the committee the initial terms of office for committee mem-**  
 39 **bers as follows:**

- 40 (1) **Two shall serve for terms ending June 30, 2011.**
- 41 (2) **Two shall serve for terms ending June 30, 2012.**
- 42 (3) **Three shall serve for terms ending June 30, 2013.**

43 **SECTION 11. Sections 3, 5, 6 and 7 of this 2010 Act and the amendments to ORS 677.265**  
 44 **by section 9 of this 2010 Act become operative on January 1, 2011.**

45 **SECTION 12. The Oregon Medical Board may take any action before the operative date**

1 specified in section 11 of this 2010 Act that is necessary for the board to exercise, on and  
2 after the operative date specified in section 11 of this 2010 Act, all of the duties, functions  
3 and powers conferred on the board by sections 3, 5, 6 and 7 of this 2010 Act and the amend-  
4 ments to ORS 677.265 by section 9 of this 2010 Act.

5 SECTION 13. This 2010 Act being necessary for the immediate preservation of the public  
6 peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect  
7 on its passage.

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