

(To Resolve Conflicts)

C-Engrossed House Bill 3355

Ordered by the Senate June 30
Including House Amendments dated April 27 and June 20 and Senate
Amendments dated June 30 to resolve conflicts

Sponsored by Representative KENNEMER, Senator MONNES ANDERSON, Representatives GREENLICK, MALSTROM; Representatives BARNHART, HACK, KOTEK, NOSSE, OLSON, STARK, WHISNANT, Senators DEMBROW, GIROD, KRUSE, MONROE, ROBLAN

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 State Board of Psychologist Examiners to issue certificate of prescriptive authority to licensed psychologist who meets specified requirements. Requires that licensed psychologist collaborate with prescribing physician or prescribing nurse practitioner during clinical residency program.

Establishes Committee on Prescribing Psychologists.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to prescribing psychologists; creating new provisions; amending ORS 675.085 and 675.110;
3 and declaring an emergency.

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

5 **SECTION 1. As used in sections 1 to 7 of this 2017 Act:**

6 (1) **“Certificate of prescriptive authority” means a conditional certificate of prescriptive**
7 **authority or a full certificate of prescriptive authority issued under section 3 of this 2017**
8 **Act.**

9 (2) **“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 (3) **“Drug” has the meaning given that term in ORS 475.005.**

13 (4) **“Formulary” means drugs, other than opiate-based narcotics, that are used:**

14 (a) **In the treatment of mental disorders; or**

15 (b) **To manage side effects of drugs used in the treatment of mental disorders.**

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

18 (6) **“Prescribe” has the meaning given that term in ORS 677.010.**

19 (7) **“Prescribing nurse practitioner” means a person who is certified as a nurse practi-**
20 **tioner under ORS 678.375 and who is qualified to practice in the specialties of psychiatric and**
21 **mental health.**

22 (8) **“Prescribing physician” means a person who holds a degree of Doctor of Medicine or**
23 **Doctor of Osteopathic Medicine and who holds a license to practice medicine or osteopathic**

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 medicine issued under ORS chapter 677.

2 (9) "Prescribing psychologist" means a licensed psychologist who has been issued a cer-
3 tificate of prescriptive authority under section 3 of this 2017 Act.

4 **SECTION 2.** (1) There is established within the State Board of Psychologist Examiners a
5 Committee on Prescribing Psychologists. The committee consists of nine members appointed
6 as follows:

7 (a) The State Board of Psychologist Examiners shall appoint:

8 (A) Three licensed psychologists, one of whom is a member of the State Board of Psy-
9 chologist Examiners and one of whom has completed a clinical residency program; and

10 (B) One member of the public who is a consumer advocate for behavioral health services.

11 (b) The Oregon Medical Board shall appoint four prescribing physicians, at least one of
12 whom is a psychiatrist, one of whom practices as a primary care physician and one of whom
13 has expertise in the treatment of children.

14 (c) The Oregon State Board of Nursing shall appoint one prescribing nurse practitioner.

15 (2) The term of office for each member is three years, but each member serves at the
16 pleasure of the appointing authority. Before the expiration of the term of a member, the
17 appointing authority shall appoint a successor whose term begins on July 1 next following.
18 A member is eligible for reappointment. If there is a vacancy for any cause, the appointing
19 authority shall make an appointment to become immediately effective for the unexpired
20 term.

21 (3) The members of the committee shall elect one of the licensed psychologists appointed
22 under subsection (1)(a) of this section as the chairperson of the committee.

23 (4) The committee shall:

24 (a) Review and make recommendations to the State Board of Psychologist Examiners on
25 clinical residency programs proposed by applicants seeking a conditional certificate of
26 prescriptive authority;

27 (b) Review and make recommendations to the State Board of Psychologist Examiners on
28 applications submitted for certificates of prescriptive authority;

29 (c) Develop and make recommendations to the State Board of Psychologist Examiners
30 regarding the formulary and make recommendations for annual revisions of the formulary;

31 (d) Develop and make recommendations to the State Board of Psychologist Examiners
32 regarding standards, examinations and continuing education for prescribing psychologists;
33 and

34 (e) Report to the State Board of Psychologist Examiners regarding the use of prescriptive
35 authority by prescribing psychologists.

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

38 (6) Official action by the committee requires the approval of a majority of the members
39 of the committee.

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

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

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

45 (10) The State Board of Psychologist Examiners shall provide staff support to the com-

1 **mittee.**

2 (11) **Members of the committee are not entitled to compensation, but may be reimbursed**
3 **from funds available to the State Board of Psychologist Examiners for actual and necessary**
4 **travel and other expenses incurred by committee members in the performance of their offi-**
5 **cial duties in the manner and amount provided in ORS 292.495.**

6 **SECTION 3. (1) In the manner provided in section 5 of this 2017 Act, the State Board of**
7 **Psychologist Examiners may issue a certificate of prescriptive authority to a licensed psy-**
8 **chologist that authorizes the licensed psychologist to prescribe drugs that are listed in the**
9 **formulary.**

10 (2)(a) **A licensed psychologist may apply to the board for a conditional certificate of**
11 **prescriptive authority if the psychologist:**

12 (A) **Has a master's degree in clinical psychopharmacology, including training in physical**
13 **assessment, pathophysiology, psychopharmacology and clinical management, from a program**
14 **designated by the American Psychological Association or its successor organization, when**
15 **the association's standards and procedures have been approved by the board by rule;**

16 (B) **Has proposed a clinical residency program that has been reviewed by the Committee**
17 **on Prescribing Psychologists and forwarded to the board with the committee's recommen-**
18 **dation on the clinical residency program under section 4 of this 2017 Act;**

19 (C) **Has passed a national certification examination in psychopharmacology as specified**
20 **by the board by rule; and**

21 (D) **Pays the fees required by the board by rule.**

22 (b) **A prescribing psychologist who holds a conditional certificate of prescriptive authority**
23 **may prescribe a drug only if a prescribing physician or a prescribing nurse practitioner has**
24 **specifically approved the prescription in writing, in accordance with rules adopted under**
25 **section 7 of this 2017 Act.**

26 (3) **A licensed psychologist may apply to the board for a full certificate of prescriptive**
27 **authority if the licensed psychologist:**

28 (a) **Has completed a clinical residency program:**

29 (A) **Approved by the board after taking into account the committee's recommendation**
30 **on the clinical residency program under section 4 of this 2017 Act; or**

31 (B) **In another state that is equivalent to a clinical residency program in Oregon ap-**
32 **proved by the board;**

33 (b) **Has passed a national certification examination in psychopharmacology as specified**
34 **by the board by rule; and**

35 (c) **Pays the fees required by the board by rule.**

36 (4) **A certificate of prescriptive authority issued under this section does not authorize the**
37 **licensed psychologist to prescribe narcotic drugs. However, a licensed psychologist who holds**
38 **a certificate of prescriptive authority, and who is adequately trained, may prescribe partial**
39 **opiate antagonists.**

40 (5) **A certificate of prescriptive authority issued under this section expires every two**
41 **years. Taking into account the recommendations made by the committee under section 2 of**
42 **this 2017 Act, the board shall adopt rules to establish the requirements and fee for renewal**
43 **of a certificate of prescriptive authority.**

44 (6) **Taking into account the recommendations made by the committee under section 2 of**
45 **this 2017 Act, the board shall adopt rules to establish standards and continuing education**

1 requirements for prescribing psychologists.

2 (7) The board shall provide a report on the practice of prescribing psychologists to a
3 legislative committee related to health care on or before March 31 of each odd-numbered
4 year.

5 **SECTION 4.** (1) A clinical residency program for certifying a prescribing psychologist
6 under section 3 of this 2017 Act must include 24 months of training in conjunction with a
7 longitudinal outpatient experience that:

8 (a) Requires the licensed psychologist to collaborate with at least one prescribing physi-
9 cian or prescribing nurse practitioner when the licensed psychologist is providing the clinical
10 service of prescribing drugs to a patient.

11 (b) Is completed pursuant to a residency contract that is approved by the Committee on
12 Prescribing Psychologists before the licensed psychologist begins the clinical residency pro-
13 gram.

14 (c) Includes the following components:

15 (A) At least 12 months of clinical experience in a general medical health setting in direct
16 collaboration with a prescribing physician or a prescribing nurse practitioner; and

17 (B) If the licensed psychologist intends to practice with a specialized population, at least
18 three months of clinical experience in a specialized setting such as a general pediatric set-
19 ting, a pain treatment setting, a general geriatric setting, an addiction treatment setting or
20 a general neurology setting.

21 (2)(a) The committee shall review all clinical residency programs proposed by applicants
22 under section 3 of this 2017 Act on an individual basis and recommend to the State Board
23 of Psychologist Examiners whether to accept or reject the proposed clinical residency pro-
24 gram, taking into account each applicant's experience and other qualifications.

25 (b) Notwithstanding subsection (1) of this section, the committee may recommend ac-
26 ceptance of a clinical residency program that does not meet the requirements of subsection
27 (1) of this section if the committee determines that the applicant's experience and other
28 qualifications and the clinical residency program proposed by the applicant combine to satisfy
29 the requirements of subsection (1) of this section.

30 **SECTION 5.** (1) The Committee on Prescribing Psychologists shall meet at least once
31 each quarter, unless the committee has no business to conduct.

32 (2)(a) If the committee recommends approval of an application for a certificate of
33 prescriptive authority under section 3 of this 2017 Act and the State Board of Psychologist
34 Examiners accepts the recommendation, the board shall issue the certificate of prescriptive
35 authority within 30 days of the date of acceptance.

36 (b) If the board refuses to issue a certificate of prescriptive authority based on the rec-
37 ommendation of the committee or based on the rejection by the board of the committee's
38 recommendation to approve an application for a certificate of prescriptive authority under
39 section 3 of this 2017 Act, the applicant may request a contested case hearing under ORS
40 chapter 183.

41 **SECTION 6.** (1) In the manner prescribed by ORS chapter 183 for contested cases, the
42 State Board of Psychologist Examiners may deny, suspend, limit or revoke a certificate of
43 prescriptive authority upon proof of a prescribing psychologist's inappropriate use of
44 prescriptive authority.

45 (2) When the board receives a complaint about a prescribing psychologist, the board shall

1 forward the complaint to the Committee on Prescribing Psychologists for a recommendation
2 on disciplinary action. The board may accept or reject the recommendation of the committee.

3 **SECTION 7. (1) Taking into account the recommendations made by the Committee on**
4 **Prescribing Psychologists under section 2 of this 2017 Act, the State Board of Psychologist**
5 **Examiners shall adopt rules requiring:**

6 (a) A prescribing psychologist to practice in a general medical setting, such as a patient
7 centered primary care home, as defined in ORS 414.025, or other health care facility where
8 general medical health care providers are on the premises, to ensure that:

9 (A) Necessary medical examinations are conducted;

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

11 (C) The prescribing psychologist and the primary care physician or the nurse practitioner
12 discuss, in a timely manner, any significant changes in the patient's medical or psychological
13 condition.

14 (b) A prescribing psychologist with a conditional certificate of prescriptive authority to
15 obtain the specific written approval of a prescribing physician or a prescribing nurse practi-
16 tioner for each prescription the prescribing psychologist writes.

17 (2) A primary care physician or a nurse practitioner who collaborates with a prescribing
18 psychologist as required by rules adopted under this section is not liable for any injury re-
19 sulting from the care provided by the prescribing psychologist that was the subject of the
20 collaboration, unless the injury results from the gross negligence or reckless, wanton or in-
21 tentional misconduct of the primary care physician or the nurse practitioner.

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

23 675.085. (1) Upon receipt of a complaint under ORS 675.010 to 675.150, the State Board of Psy-
24 chologist Examiners shall conduct an investigation as described under ORS 676.165.

25 (2) During an investigation of a prescribing psychologist, as defined in section 1 of this
26 2017 Act, the board may consult with and disclose investigatory information to the Commit-
27 tee on Prescribing Psychologists established in section 2 of this 2017 Act.

28 [(2)] (3) [Where] If the board proposes to refuse to issue a license or to impose [any] disciplinary
29 action under ORS 675.070, the board shall provide an opportunity for hearing [shall be accorded]
30 as [provided in] required by ORS chapter 183. The board shall render its decision within 30 days
31 after the hearing.

32 [(3)] (4) Adoption of rules, conduct of hearings, issuance of orders and judicial review of rules
33 and orders [shall be as provided in] must comply with the provisions of ORS chapter 183.

34 **SECTION 9.** ORS 675.110, as amended by section 13, chapter 104, Oregon Laws 2017 (Enrolled
35 House Bill 2319), is amended to read:

36 675.110. In addition to the powers otherwise granted under ORS 675.010 to 675.150, the State
37 Board of Psychologist Examiners has all powers necessary or proper to:

38 (1) Determine qualifications of applicants to practice psychology in this state, prepare, conduct
39 and grade examinations and license qualified applicants who comply with the provisions of ORS
40 675.010 to 675.150 and the rules of the board.

41 (2) Grant or deny renewal of licenses and renew licenses that have lapsed for nonpayment of the
42 renewal fee, subject to the provisions of ORS 675.010 to 675.150.

43 (3) Suspend or revoke licenses, subject to ORS 675.010 to 675.150.

44 (4) Issue letters of reprimand and impose probationary periods with the authority to restrict the
45 scope of practice of a licensed psychologist or to require practice under supervision.

1 (5) Impose civil penalties as provided in ORS 675.070.

2 (6) Restore licenses that have been suspended or revoked or voided by nonpayment of the re-
3 newal fee.

4 (7) Collect fees for application, examination and licensing of applicants, for renewal of licenses
5 and for issuance of limited permits and use the fees to defray the expenses of the board as provided
6 in ORS 675.140.

7 (8) Collect a delinquent renewal fee for licenses renewed after the deadline for renewal but be-
8 fore the grace period for renewal has expired.

9 (9) Investigate alleged violations of ORS 675.010 to 675.150.

10 (10) Issue subpoenas for the attendance of witnesses, take testimony, administer oaths or affir-
11 mations to witnesses, conduct hearings and require the production of relevant documents in all
12 proceedings pertaining to the duties and powers of the board.

13 (11) Enforce ORS 675.010 to 675.150 and exercise general supervision over the practice of psy-
14 chology in this state.

15 (12) Adopt a common seal.

16 (13) Formulate a code of professional conduct for the practice of psychology giving particular
17 consideration to the Ethical Standards of Psychologists promulgated by the American Psychological
18 Association.

19 (14) Establish standards of service and training and educational qualifications for rendering
20 ethical psychological services in this state, including the formulation of standards for the issuance
21 of licenses for areas of special competence.

22 (15) Formulate and enforce continuing education requirements for duly licensed psychologists
23 to ensure the highest quality of professional services to the public.

24 (16) Deny renewal of a license, or renewal of a license that has lapsed for nonpayment of the
25 renewal fee, unless the applicant completes, or provides documentation of previous completion of:

26 (a) A pain management education program approved by the board and developed in conjunction
27 with the Pain Management Commission established under ORS 413.570; or

28 (b) An equivalent pain management education program, as determined by the board.

29 (17) For the purpose of requesting a state or nationwide criminal records check under ORS
30 181A.195, require the fingerprints of a person who is:

31 (a) Applying for a license that is issued by the board;

32 (b) Applying for renewal of a license that is issued by the board; or

33 (c) Under investigation by the board.

34 (18) Prescribe, in consultation with the Oregon Board of Licensed Professional Counselors and
35 Therapists, the duties of the Director of the Mental Health Regulatory Agency.

36 **(19) Issue, suspend, revoke or deny certificates of prescriptive authority under section 3**
37 **of this 2017 Act, and renew or deny renewal of certificates of prescriptive authority.**

38 *[(19)]* **(20) Subject to the applicable provisions of ORS chapter 183, adopt reasonable rules to**
39 **carry out the provisions of ORS 675.010 to 675.150 and sections 1 to 7 of this 2017 Act.**

40 **SECTION 10. Notwithstanding the term of office specified by section 2 of this 2017 Act,**
41 **the members first appointed to the Committee on Prescribing Psychologists shall determine**
42 **by lot at the first meeting of the committee the initial terms of office for committee mem-**
43 **bers as follows:**

44 **(1) Four shall serve for terms ending June 30, 2020.**

45 **(2) Five shall serve for terms ending June 30, 2021.**

1 **SECTION 11.** Notwithstanding any other law limiting expenditures, the amount of \$55,762
2 is established for the biennium beginning July 1, 2017, as the maximum limit for payment of
3 expenses for the purposes of carrying out the provisions of section 2 of this 2017 Act from
4 fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds
5 and federal funds, collected or received by the State Board of Psychologist Examiners.

6 **SECTION 12.** (1) Sections 2 to 7 of this 2017 Act and the amendments to ORS 675.085 and
7 675.110 by sections 8 and 9 of this 2017 Act become operative on July 1, 2018.

8 (2) The State Board of Psychologist Examiners may take any action before the operative
9 date specified in subsection (1) of this section that is necessary for the board to exercise, on
10 and after the operative date specified in subsection (1) of this section, all of the duties,
11 functions and powers conferred on the board by sections 2 to 7 of this 2017 Act and the
12 amendments to ORS 675.085 and 675.110 by sections 8 and 9 of this 2017 Act.

13 **SECTION 13.** This 2017 Act being necessary for the immediate preservation of the public
14 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect
15 on its passage.
16
