

House Bill 3355

Sponsored by Representative KENNEMER, Senators STEINER HAYWARD, MONNES ANDERSON, Representatives GREENLICK, MALSTROM; Representatives HACK, KOTEK, NOSSE, OLSON, 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 **as introduced**.

Authorizes State Board of Psychologist Examiners to issue certificate of prescriptive authority to licensed psychologist who meets specified requirements.
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:**

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

5
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 physician" means a person who holds a degree of Doctor of Medicine or**
20 **Doctor of Osteopathic Medicine and who holds a license to practice medicine or osteopathic**
21 **medicine issued under ORS chapter 677.**

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

24 **SECTION 2. (1) There is established within the State Board of Psychologist Examiners a**
25 **Committee on Prescribing Psychologists. The committee consists of seven members ap-**
26 **pointed as follows:**

27 (a) **The State Board of Psychologist Examiners shall appoint four licensed psychologists,**
28 **one of whom is a member of the State Board of Psychologist Examiners and one of whom**
29 **has completed the clinical residency program described in section 4 of this 2017 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 (b) The Oregon Medical Board shall appoint three prescribing physicians, at least one of
 2 whom is a psychiatrist and one of whom practices as a primary care physician.

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

9 (3) One of the members of the committee must have expertise in the treatment of chil-
 10 dren, including expertise in prescribing drugs to children.

11 (4) The members of the committee shall elect one of the licensed psychologists appointed
 12 under subsection (1)(a) of this section as the chairperson of the committee.

13 (5) The committee shall:

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

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

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

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

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

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

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

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

32 (9) 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 (10) The committee may adopt rules necessary for the operation of the committee.

35 (11) The State Board of Psychologist Examiners shall provide staff support to the com-
 36 mittee.

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

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

45 (2)(a) A licensed psychologist may apply to the board for a conditional certificate of

1 prescriptive authority if the psychologist:

2 (A)(i) Has a master's degree in clinical psychopharmacology, including training in phys-
 3 ical assessment, pathophysiology, psychopharmacology and clinical management, from a
 4 program accredited by the American Psychological Association or its successor organization,
 5 when the association's standards and procedures have been approved by the board by rule;
 6 or

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

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

13 (C) Has passed a national certification examination in psychopharmacology as specified
 14 by the board by rule; and

15 (D) Pays the fees required by the board by rule.

16 (b) A prescribing psychologist who holds a conditional certificate of prescriptive authority
 17 may prescribe a drug only if a prescribing physician, licensed under ORS chapter 677, has
 18 specifically approved the prescription in writing, in accordance with rules adopted under
 19 section 7 of this 2017 Act.

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

22 (a) Has completed a clinical residency program approved by the board after taking into
 23 account the committee's recommendation on the clinical residency program under section 4
 24 of this 2017 Act;

25 (b) Has passed a national certification examination in psychopharmacology as specified
 26 by the board by rule; and

27 (c) Pays the fees required by the board by rule.

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

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

36 (6) Taking into account the recommendations made by the committee under section 2 of
 37 this 2017 Act, the board shall adopt rules to establish standards and continuing education
 38 requirements for prescribing psychologists.

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

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

45 (a) Requires the licensed psychologist to collaborate with at least one prescribing physi-

1 cian when the licensed psychologist is providing the clinical service of prescribing drugs to
 2 a patient.

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

6 (c) Includes the following components:

7 (A) At least two months of clinical experience in a general medical health setting in di-
 8 rect collaboration with a prescribing physician; and

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

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

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

22 **SECTION 5.** (1) No later than 30 days after the State Board of Psychologist Examiners
 23 receives an application for a certificate of prescriptive authority under section 3 of this 2017
 24 Act, the board shall forward the application to the Committee on Prescribing Psychologists.

25 (2) No later than 30 days after the board forwards the application to the committee, the
 26 committee shall review the application and recommend in writing to the board the approval
 27 or denial of the application.

28 (3) No later than 30 days after the committee sends its recommendation on the applica-
 29 tion to the board, the board shall accept or reject the recommendation.

30 (4)(a) If the committee recommends approval of the application and the board accepts the
 31 recommendation, the board shall issue the certificate of prescriptive authority within 30 days
 32 of the date of acceptance.

33 (b) If the board refuses to issue a certificate of prescriptive authority based on the rec-
 34 ommendation of the committee or based on the rejection of the committee's recommendation
 35 to approve the application by the board, the applicant may request a contested case hearing
 36 under ORS chapter 183.

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

41 (2) When the board receives a complaint about a prescribing psychologist, the board shall
 42 forward the complaint to the Committee on Prescribing Psychologists for a recommendation
 43 on disciplinary action. The board may accept or reject the recommendation of the committee.

44 **SECTION 7.** (1) Taking into account the recommendations made by the Committee on
 45 Prescribing Psychologists under section 2 of this 2017 Act, the State Board of Psychologist

1 **Examiners shall adopt rules requiring:**

2 (a) **A prescribing psychologist to practice in a general medical setting, such as a patient**
 3 **centered primary care home, as defined in ORS 414.025, or other health care facility where**
 4 **general medical health care providers are on the premises, 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 primary care physician discuss, in a timely**
 8 **manner, any significant changes in the patient’s medical or psychological condition.**

9 (b) **A prescribing psychologist with a conditional certificate of prescriptive authority to**
 10 **obtain the specific written approval of a prescribing physician for each prescription the pre-**
 11 **scribing psychologist writes.**

12 (2) **A primary care physician who collaborates with a prescribing psychologist as required**
 13 **by rules adopted under this section is not liable for any injury resulting from the care pro-**
 14 **vided by the prescribing psychologist that was the subject of the collaboration, unless the**
 15 **injury results from the gross negligence or reckless, wanton or intentional misconduct of the**
 16 **primary care physician.**

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

18 675.085. (1) Upon receipt of a complaint under ORS 675.010 to 675.150, the State Board of Psy-
 19 chologist Examiners shall conduct an investigation as described under ORS 676.165.

20 (2) **If the investigation by the board reveals that a prescribing psychologist, as defined in**
 21 **section 1 of this 2017 Act, has improperly used prescriptive authority, the board of shall no-**
 22 **tify the Committee on Prescribing Psychologists established in section 2 of this 2017 Act. The**
 23 **board may impose disciplinary action as permitted under ORS 675.070.**

24 [(2)] (3) [Where] **If the board proposes to refuse to issue a license or to impose [any] disciplinary**
 25 **action under ORS 675.070, the board shall provide an opportunity for hearing [shall be accorded]**
 26 **as [provided in] required by ORS chapter 183. The board shall render its decision within 30 days**
 27 **after the hearing.**

28 [(3)] (4) Adoption of rules, conduct of hearings, issuance of orders and judicial review of rules
 29 and orders [shall be as provided in] **must comply with the provisions of ORS chapter 183.**

30 **SECTION 9.** ORS 675.110 is amended to read:

31 675.110. The State Board of Psychologist Examiners [shall have] **has** the following powers, in
 32 addition to the powers otherwise granted under ORS 675.010 to 675.150, and [shall have] **has** all
 33 powers necessary or proper to carry the granted powers into effect:

34 (1) To determine qualifications of applicants to practice psychology in this state; to cause to
 35 have examinations prepared, conducted and graded and to grant licensing to qualified applicants
 36 upon their compliance with the provisions of ORS 675.010 to 675.150 and the rules of the board.

37 (2) To grant or deny renewal of licenses, and to renew licenses which have lapsed for nonpay-
 38 ment of the renewal fee, subject to the provisions of ORS 675.010 to 675.150.

39 (3) To suspend or revoke licenses, subject to ORS 675.010 to 675.150.

40 (4) To issue letters of reprimand, to impose probationary periods with the authority to restrict
 41 the scope of practice of a licensed psychologist or to require practice under supervision.

42 (5) To impose civil penalties as provided in ORS 675.070.

43 (6) To restore licenses which have been suspended or revoked or voided by nonpayment of the
 44 renewal fee.

45 (7)(a) To collect fees for application, examination and licensing of applicants, for renewal of li-

1 censes, and for issuance of limited permits, such fees to be used to defray the expenses of the board
 2 as provided in ORS 675.140.

3 (b) The board may collect a delinquent renewal fee for licenses renewed after the deadline for
 4 renewal but before the grace period for renewal has expired.

5 (8) To investigate alleged violations of ORS 675.010 to 675.150.

6 (9) To issue subpoenas for the attendance of witnesses, take testimony, administer oaths or af-
 7 firmations to witnesses, conduct hearings, require the production of relevant documents in all pro-
 8 ceedings pertaining to the duties and powers of the board.

9 (10) To enforce ORS 675.010 to 675.150 and to exercise general supervision over the practice of
 10 psychology in this state.

11 (11) To adopt a common seal.

12 (12) To formulate a code of professional conduct for the practice of psychology giving particular
 13 consideration to the Ethical Standards of Psychologists promulgated by the American Psychological
 14 Association.

15 (13) To establish standards of service and training and educational qualifications for the ren-
 16 dering of ethical psychological services in this state, including the formulation of standards for the
 17 issuance of licenses for areas of special competence.

18 (14) To formulate and enforce continuing education requirements for duly licensed psychologists
 19 to ensure the highest quality of professional services to the public.

20 (15) To deny renewal of a license, or renewal of a license that has lapsed for nonpayment of the
 21 renewal fee, unless the applicant completes, or provides documentation of previous completion of:

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

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

25 (16) For the purpose of requesting a state or nationwide criminal records check under ORS
 26 181A.195, to require the fingerprints of a person who is:

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

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

29 (c) Under investigation by the board.

30 **(17) To issue, suspend, revoke or deny certificates of prescriptive authority under section**
 31 **3 of this 2017 Act, and to renew or deny renewal of certificates of prescriptive authority.**

32 *[(17)]* (18) Subject to the applicable provisions of ORS chapter 183, to adopt reasonable rules to
 33 carry out the provisions of ORS 675.010 to 675.150 **and sections 1 to 7 of this 2017 Act.**

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

38 (1) **Two shall serve for terms ending June 30, 2020.**

39 (2) **Two shall serve for terms ending June 30, 2021.**

40 (3) **Three shall serve for terms ending June 30, 2022.**

41 **SECTION 11. (1) Sections 2 to 7 of this 2017 Act and the amendments to ORS 675.085 and**
 42 **675.110 by sections 8 and 9 of this 2017 Act become operative on January 1, 2018.**

43 (2) **The State Board of Psychologist Examiners may take any action before the operative**
 44 **date specified in subsection (1) of this section that is necessary for the board to exercise, on**
 45 **and after the operative date specified in subsection (1) of this section, all of the duties,**

1 functions and powers conferred on the board by sections 2 to 7 of this 2017 Act and the
2 amendments to ORS 675.085 and 675.110 by sections 8 and 9 of this 2017 Act.

3 SECTION 12. This 2017 Act being necessary for the immediate preservation of the public
4 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect
5 on its passage.
6
