

Requested by Senator JOHNSON

**PROPOSED AMENDMENTS TO
B-ENGROSSED HOUSE BILL 3355**

1 On page 1 of the printed B-engrossed bill, line 2, after “ORS” delete
2 “675.085 and 675.110” and insert “677.265 and 677.320”.

3 Delete lines 5 through 25 and delete pages 2 through 7 and insert:

4 **“SECTION 1. As used in sections 1 to 9 of this 2017 Act:**

5 **“(1) ‘Certificate of prescriptive authority’ means a conditional cer-**
6 **tificate of prescriptive authority or a full certificate of prescriptive**
7 **authority issued under section 3 of this 2017 Act.**

8 **“(2) ‘Collaboration’ means a process that involves two or more**
9 **persons working together, each contributing that person’s respective**
10 **area of expertise to provide more comprehensive care than one person**
11 **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,**
14 **that are used:**

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

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

18 **“(5) ‘Licensed psychologist’ means a person licensed to practice**
19 **psychology under the provisions of ORS 675.010 to 675.150.**

20 **“(6) ‘Prescribe’ has the meaning given that term in ORS 677.010.**

21 **“(7) ‘Prescribing physician’ means a person who holds a degree of**

1 **Doctor of Medicine or Doctor of Osteopathic Medicine and who holds**
2 **a license to practice medicine or osteopathic medicine issued under**
3 **ORS chapter 677.**

4 **“(8) ‘Prescribing psychologist’ means a licensed psychologist who**
5 **has been issued a certificate of prescriptive authority under section 3**
6 **of this 2017 Act.**

7 **“SECTION 2. (1) There is established within the Oregon Medical**
8 **Board a Committee on Prescribing Psychologists. The committee con-**
9 **sists of nine members appointed as follows:**

10 **“(a) The State Board of Psychologist Examiners shall appoint:**

11 **“(A) Three licensed psychologists, one of whom is a member of the**
12 **State Board of Psychologist Examiners and one of whom has com-**
13 **pleted a clinical residency program; and**

14 **“(B) One member of the public who is a consumer of the services**
15 **provided by a licensed psychologist.**

16 **“(b) The Oregon Medical Board shall appoint four prescribing phy-**
17 **sicians, at least one of whom is a psychiatrist, one of whom practices**
18 **as a primary care physician and one of whom has expertise in the**
19 **treatment of children.**

20 **“(c) The State Board of Pharmacy shall appoint one pharmacist li-**
21 **censed under ORS chapter 689 who has expertise in psychotropic**
22 **medications.**

23 **“(2) The term of office for each member is three years, but each**
24 **member serves at the pleasure of the appointing authority. Before the**
25 **expiration of the term of a member, the appointing authority shall**
26 **appoint a successor whose term begins on July 1 next following. A**
27 **member is eligible for reappointment. If there is a vacancy for any**
28 **cause, the appointing authority shall make an appointment to become**
29 **immediately effective for the unexpired term.**

30 **“(3) The members of the committee shall elect one of the licensed**

1 **psychologists appointed under subsection (1)(a) of this section as the**
2 **chairperson of the committee.**

3 **“(4) The committee shall:**

4 **“(a) Review and make recommendations to the Oregon Medical**
5 **Board on clinical residency programs proposed by applicants seeking**
6 **a conditional certificate of prescriptive authority;**

7 **“(b) Review and make recommendations to the Oregon Medical**
8 **Board on applications submitted for certificates of prescriptive au-**
9 **thority;**

10 **“(c) Develop and make recommendations to the Oregon Medical**
11 **Board regarding the formulary and make recommendations for annual**
12 **revisions of the formulary;**

13 **“(d) Develop and make recommendations to the Oregon Medical**
14 **Board regarding standards, examinations and continuing education for**
15 **prescribing psychologists; and**

16 **“(e) Report to the Oregon Medical Board regarding the use of**
17 **prescriptive authority by prescribing psychologists.**

18 **“(5) A majority of the members of the committee constitutes a**
19 **quorum for the transaction of business.**

20 **“(6) Official action by the committee requires the approval of a**
21 **majority of the members of the committee.**

22 **“(7) The committee may seek the assistance of a neutral third party**
23 **in resolving disagreements among the committee members and facili-**
24 **tating the collaborative process.**

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

27 **“(9) The committee may adopt rules necessary for the operation of**
28 **the committee.**

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

1 “(11) Members of the committee are not entitled to compensation,
2 but may be reimbursed from funds available to the Oregon Medical
3 Board for actual and necessary travel and other expenses incurred by
4 committee members in the performance of their official duties in the
5 manner and amount provided in ORS 292.495.

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

10 “(2)(a) A licensed psychologist may apply to the board for a condi-
11 tional certificate of prescriptive authority if the psychologist:

12 “(A)(i) Has a master’s degree in clinical psychopharmacology, in-
13 cluding training in physical assessment, pathophysiology,
14 psychopharmacology and clinical management, from a program desig-
15 nated by the American Psychological Association or its successor or-
16 ganization, when the association’s standards and procedures have been
17 approved by the board by rule; or

18 “(ii) Has successfully completed the United States Department of
19 Defense Psychopharmacology Demonstration Project or a similar pro-
20 gram developed and operated by any branch of the Armed Forces of
21 the United States;

22 “(B) Has proposed a clinical residency program that has been re-
23 viewed by the Committee on Prescribing Psychologists and forwarded
24 to the board with the committee’s recommendation on the clinical
25 residency program under section 6 of this 2017 Act;

26 “(C) Has passed a national certification examination in
27 psychopharmacology as specified by the board by rule; and

28 “(D) Pays the fees required by the board by rule.

29 “(b) A prescribing psychologist who holds a conditional certificate
30 of prescriptive authority may prescribe a drug only if a prescribing

1 physician, licensed under ORS chapter 677, has specifically approved
2 the prescription in writing, in accordance with rules adopted under
3 section 9 of this 2017 Act.

4 “(3) A licensed psychologist may apply to the board for a full cer-
5 tificate of prescriptive authority if the licensed psychologist:

6 “(a) Has completed a clinical residency program approved by the
7 board after taking into account the committee’s recommendation on
8 the clinical residency program under section 5 of this 2017 Act;

9 “(b) Has passed a national certification examination in
10 psychopharmacology as specified by the board by rule;

11 “(c) Has completed education in biomedical science that the board
12 determines is sufficient; and

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

14 “(4) A certificate of prescriptive authority issued under this section
15 expires every two years. Taking into account the recommendations
16 made by the committee under section 2 of this 2017 Act, the board
17 shall adopt rules to establish the requirements and fee for renewal of
18 a certificate of prescriptive authority.

19 “(5) Taking into account the recommendations made by the com-
20 mittee under section 2 of this 2017 Act, the board shall adopt rules to
21 establish standards and continuing education requirements for pre-
22 scribing psychologists.

23 “(6) The board shall provide a report on the practice of prescribing
24 psychologists, including the number of prescribing psychologists prac-
25 ticing in rural and urban areas, to a legislative committee related to
26 health care on or before March 31 of each odd-numbered year.

27 “SECTION 4. (1) A certificate of prescriptive authority issued under
28 section 3 of this 2017 Act does not authorize a licensed psychologist to
29 prescribe:

30 “(a) Narcotic drugs; or

1 **“(b) To patients who are:**

2 **“(A) Younger than 17 years of age;**

3 **“(B) Older than 65 years of age;**

4 **“(C) Pregnant;**

5 **“(D) Persons with developmental disabilities; or**

6 **“(E) Persons with serious medical issues, as determined by the**
7 **Oregon Medical Board.**

8 **“(2) A licensed psychologist who holds a certificate of prescriptive**
9 **authority may, if adequately trained, prescribe partial opiate antag-**
10 **onists.**

11 **“SECTION 5. (1) A clinical residency program for certifying a pre-**
12 **scribing psychologist under section 3 of this 2017 Act must include 24**
13 **months of training in conjunction with a longitudinal outpatient ex-**
14 **perience that:**

15 **“(a) Requires the licensed psychologist to collaborate with at least**
16 **one prescribing physician when the licensed psychologist is providing**
17 **the clinical service of prescribing drugs to a patient.**

18 **“(b) Is completed pursuant to a residency contract that is approved**
19 **by the Committee on Prescribing Psychologists before the licensed**
20 **psychologist begins the clinical residency program.**

21 **“(c) Includes the following components:**

22 **“(A) At least 12 months of clinical experience in a general medical**
23 **health setting in direct collaboration with a prescribing physician; and**

24 **“(B) If the licensed psychologist intends to practice with a special-**
25 **ized population, at least three months of clinical experience in a spe-**
26 **cialized setting such as a general pediatric setting, a pain treatment**
27 **setting, a general geriatric setting, an addiction treatment setting or**
28 **a general neurology setting.**

29 **“(2)(a) The committee shall review all clinical residency programs**
30 **proposed by applicants under section 3 of this 2017 Act on an individual**

1 basis and recommend to the Oregon Medical Board whether to accept
2 or reject the proposed clinical residency program, taking into account
3 each applicant’s experience and other qualifications.

4 “(b) Notwithstanding subsection (1) of this section, the committee
5 may recommend acceptance of a clinical residency program that does
6 not meet the requirements of subsection (1) of this section if the
7 committee determines that the applicant’s experience and other qual-
8 ifications and the clinical residency program proposed by the applicant
9 combine to satisfy the requirements of subsection (1) of this section.

10 “SECTION 6. (1) No later than 30 days after the Oregon Medical
11 Board receives an application for a certificate of prescriptive authority
12 under section 3 of this 2017 Act, the board shall forward the application
13 to the Committee on Prescribing Psychologists.

14 “(2) No later than 30 days after the board forwards the application
15 to the committee, the committee shall review the application and re-
16 commend in writing to the board the approval or denial of the appli-
17 cation.

18 “(3) No later than 30 days after the committee sends its recom-
19 mendation on the application to the board, the board shall accept or
20 reject the recommendation.

21 “(4)(a) If the committee recommends approval of the application
22 and the board accepts the recommendation, the board shall issue the
23 certificate of prescriptive authority within 30 days of the date of ac-
24 ceptance.

25 “(b) If the board refuses to issue a certificate of prescriptive au-
26 thority based on the recommendation of the committee or based on
27 the rejection of the committee’s recommendation to approve the ap-
28 plication by the board, the applicant may request a contested case
29 hearing under ORS chapter 183.

30 “SECTION 7. (1) In the manner prescribed by ORS chapter 183 for

1 **contested cases, the Oregon Medical Board may deny, suspend, limit**
2 **or revoke a certificate of prescriptive authority upon proof of a pre-**
3 **scribing psychologist’s inappropriate use of prescriptive authority.**

4 **“(2) When the board receives a complaint about a prescribing psy-**
5 **chologist, the board shall forward the complaint to the Committee on**
6 **Prescribing Psychologists for a recommendation on disciplinary**
7 **action. The board may accept or reject the recommendation of the**
8 **committee.**

9 **“SECTION 8. All moneys received by the Oregon Medical Board**
10 **under sections 1 to 9 of this 2017 Act shall be paid into the General**
11 **Fund in the State Treasury and credited to the Oregon Medical Board**
12 **Account established under ORS 677.290. Such moneys are continuously**
13 **appropriated for the purposes of sections 1 to 9 of this 2017 Act.**

14 **“SECTION 9. (1) Taking into account the recommendations made**
15 **by the Committee on Prescribing Psychologists under section 2 of this**
16 **2017 Act, the Oregon Medical Board shall adopt rules requiring:**

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

21 **“(A) Necessary medical examinations are conducted;**

22 **“(B) The prescribed drug is appropriate for the patient’s medical**
23 **condition; and**

24 **“(C) The prescribing psychologist and the primary care physician**
25 **discuss, in a timely manner, any significant changes in the patient’s**
26 **medical or psychological condition.**

27 **“(b) A prescribing psychologist with a conditional certificate of**
28 **prescriptive authority to obtain the specific written approval of a pre-**
29 **scribing physician for each prescription the prescribing psychologist**
30 **writes.**

1 **“(2) A primary care physician who collaborates with a prescribing**
2 **psychologist as required by rules adopted under this section is not li-**
3 **able for any injury resulting from the care provided by the prescribing**
4 **psychologist that was the subject of the collaboration, unless the in-**
5 **jury results from the gross negligence or reckless, wanton or inten-**
6 **tional misconduct of the primary care physician.**

7 **“SECTION 10.** ORS 677.265 is amended to read:

8 “677.265. In addition to any other powers granted by this chapter, the
9 Oregon Medical Board may:

10 “(1) Adopt necessary and proper rules for administration of this chapter
11 including but not limited to:

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

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

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

1 or a similar community.

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

5 “(3) Use the gratuitous services and facilities of private organizations to
6 receive the assistance and recommendations of the organizations in admin-
7 istering this chapter.

8 “(4) Make its personnel and facilities available to other regulatory agen-
9 cies of this state, or other bodies interested in the development and im-
10 provement of the practice of medicine or podiatry in this state, upon terms
11 and conditions for reimbursement as are agreed to by the Oregon Medical
12 Board and the other agency or body.

13 “(5) Appoint examiners, who need not be members of the Oregon Medical
14 Board, and employ or contract with the American Public Health Association
15 or the National Board of Medical Examiners or other organizations, agencies
16 and persons to prepare examination questions and score examination papers.

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

24 “(7) Prescribe the time, place, method, manner, scope and subjects of ex-
25 aminations under this chapter.

26 “(8) Prescribe all forms that it considers appropriate for the purposes of
27 this chapter, and require the submission of photographs and relevant per-
28 sonal history data by applicants for licensure under this chapter.

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

- 1 “(a) Applying for a license that is issued by the board;
2 “(b) Applying for renewal of a license that is issued by the board; or
3 “(c) Under investigation by the board.

4 “(10) Administer oaths, issue notices and subpoenas in the name of the
5 board, enforce subpoenas in the manner authorized by ORS 183.440, hold
6 hearings and perform such other acts as are reasonably necessary to carry
7 out its duties under this chapter.

8 **“(11) Issue, suspend, revoke or deny certificates of prescriptive au-**
9 **thority under section 3 of this 2017 Act, and may renew or deny re-**
10 **newal of certificates of prescriptive authority.**

11 **“SECTION 11.** ORS 677.320 is amended to read:

12 “677.320. (1) Upon the complaint of any citizen of this state, or upon its
13 own initiative, the Oregon Medical Board may investigate any alleged vio-
14 lation of this chapter. If, after the investigation, the board has reason to
15 believe that any person is subject to prosecution criminally for the violation
16 of this chapter, it shall lay the facts before the proper district attorney.

17 “(2) In the conduct of investigations, the board or its designated repre-
18 sentative may:

- 19 “(a) Take evidence;
20 “(b) Take the depositions of witnesses, including the person charged;
21 “(c) Compel the appearance of witnesses, including the person charged;
22 “(d) Require answers to interrogatories; and
23 “(e) Compel the production of books, papers, accounts, documents and
24 testimony pertaining to the matter under investigation.

25 “(3) In exercising its authority under subsection (2) of this section, the
26 board may issue subpoenas over the signature of the executive director and
27 the seal of the board in the name of the State of Oregon.

28 “(4) In any proceeding under this section where the subpoena is addressed
29 to a licensee of this board, it shall not be a defense that the material that
30 is subject to the subpoena is protected under a patient and physician privi-

1 lege.

2 “(5) If a licensee who is the subject of an investigation or complaint is
3 to appear before members of the board investigating the complaint, the board
4 shall provide the licensee with a current summary of the complaint or the
5 matter being investigated not less than five days prior to the date that the
6 licensee is to appear. At the time the summary of the complaint or the
7 matter being investigated is provided, the board shall provide to the licensee
8 a current summary of documents or alleged facts that the board has acquired
9 as a result of the investigation. The name of the complainant or other in-
10 formation that reasonably may be used to identify the complainant may be
11 withheld from the licensee.

12 “(6) A licensee who is the subject of an investigation and any person au-
13 thorized to act on behalf of the licensee shall not knowingly contact the
14 complainant until the licensee has requested a contested case hearing and
15 the board has authorized the taking of the complainant’s deposition pursuant
16 to ORS 183.425.

17 “(7) Except in an investigation or proceeding conducted by the board or
18 another public entity, or in an action, suit or proceeding where a public
19 entity is a party, a licensee shall not be questioned or examined regarding
20 any communication with the board made in an appearance before the board
21 as part of an investigation. This section shall not prohibit examination or
22 questioning of a licensee regarding records dealing with a patient’s care and
23 treatment or affect the admissibility of those records. As used in this section,
24 ‘public entity’ has the meaning given that term in ORS 676.177.

25 “(8) **If an investigation under this section reveals that a prescribing**
26 **psychologist, as defined in section 1 of this 2017 Act, has improperly**
27 **used prescriptive authority, the board shall notify the Committee on**
28 **Prescribing Psychologists established in section 2 of this 2017 Act. The**
29 **board may impose disciplinary action as permitted under ORS 677.205.**

30 **“SECTION 12. Notwithstanding the term of office specified by sec-**

1 tion 2 of this 2017 Act, the members first appointed to the Committee
2 on Prescribing Psychologists shall determine by lot at the first meet-
3 ing of the committee the initial terms of office for committee members
4 as follows:

5 “(1) Three shall serve for terms ending June 30, 2020.

6 “(2) Three shall serve for terms ending June 30, 2021.

7 “(3) Three shall serve for terms ending June 30, 2022.

8 “SECTION 13. (1) Sections 2 to 9 of this 2017 Act and the amend-
9 ments to ORS 677.265 and 677.320 by sections 10 and 11 of this 2017 Act
10 become operative on January 1, 2018.

11 “(2) The Oregon Medical Board may take any action before the op-
12 erative date specified in subsection (1) of this section that is necessary
13 for the board to exercise, on and after the operative date specified in
14 subsection (1) of this section, all of the duties, functions and powers
15 conferred on the board by sections 2 to 9 of this 2017 Act and the
16 amendments to ORS 677.265 and 677.320 by sections 10 and 11 of this
17 2017 Act.

18 “SECTION 14. This 2017 Act being necessary for the immediate
19 preservation of the public peace, health and safety, an emergency is
20 declared to exist, and this 2017 Act takes effect on its passage.”.

21
