



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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(As Introduced)

Reps. Seitz and Gavarone, Riedel, Howse, Leland, Hambley, Kent

BILL SUMMARY

- Authorizes certain psychologists to prescribe specified drugs and devices, order related laboratory tests, and issue medication administration orders to nurses.
- Requires a psychologist to hold a certificate to prescribe issued by the State Board of Psychology before the psychologist may prescribe, order tests, or issue orders.
- Requires a psychologist holding a certificate to prescribe to review patient information in the Ohio Automated Rx Reporting System (OARRS) as a condition of treating patients with opioid analgesics or benzodiazepines.
- Adds several grounds for which the Psychology Board may take disciplinary action against a psychologist, primarily in relation to the authority to prescribe drugs and devices.
- Authorizes any psychologist to direct a licensed practical nurse in the provision of nursing care.

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CONTENT AND OPERATION

Prescriptive authority for psychologists

Scope

The bill establishes a certificate to prescribe issued by the State Board of Psychology, authorizing a psychologist who holds it to prescribe certain drugs and devices. Under the certificate, a psychologist may do all of the following:¹

--Prescribe, personally furnish, or administer certain psychotropic drugs, as well as therapeutic devices specified by the Psychology Board in rules;²

--Order laboratory tests and procedures that the certificate holder believes are necessary to safely prescribe, personally furnish, or administer the drugs and therapeutic devices; and

--Issue an order directing a registered nurse or licensed practical nurse authorized to administer medications to administer a drug or therapeutic device to a patient who is under the psychologist's care.

¹ R.C. 4732.40 and 4732.43.

² R.C. 4732.40(A).



Classes of drugs

In general, the bill authorizes a certificate holder to prescribe drugs, including controlled substances, in the following classes: antidepressants, antipsychotics, mood stabilizers and other anticonvulsant benzodiazepine³ and nonbenzodiazepine anxiolytics, sedative hypnotics, stimulants, agents used for the treatment of extrapyramidal symptoms, agents for the treatment of Alzheimer's disease, and any other drugs commonly used to treat mental illness. A certificate holder is prohibited from prescribing, personally furnishing, or administering an opioid analgesic⁴ unless the opioid analgesic is a medication approved by the U.S. Food and Drug Administration for the treatment of drug addiction, prevention of relapse of drug addiction, or both.⁵

Application and issuance

A psychologist seeking a certificate to prescribe must file an application with the Psychology Board on a form developed and supplied by the Board. The application must include all of the following:⁶

--The applicant's name, residential address, business address (if any), electronic mail address, telephone number, and social security number;

--Evidence of holding a valid license to practice psychology issued by the Board or, if the applicant exclusively practices in a facility operated by the U.S. Department of Veterans Affairs, evidence of holding a license, certificate, or registration required to practice psychology in another U.S. jurisdiction;

³ "Benzodiazepine" is defined by current law as a controlled substance that has U.S. Food and Drug Administration approved labeling indicating that it is a benzodiazepine, benzodiazepine derivative, triazolobenzodiazepine, or triazolobenzodiazepine derivative, including the following drugs and their varying salt forms or chemical congeners: alprazolam, chlordiazepoxide hydrochloride, clobazam, clonazepam, clorazepate, diazepam, estazolam, flurazepam hydrochloride, lorazepam, midazolam, oxazepam, quazepam, temazepam, and triazolam.

⁴ "Opioid analgesic" is defined by current law as a controlled substance that has analgesic pharmacologic activity at the opioid receptors of the central nervous system, including the following drugs and their varying salt forms or chemical congeners: buprenorphine, butorphanol, codeine (including acetaminophen and other combination products), dihydrocodeine, fentanyl, hydrocodone (including acetaminophen combination products), hydromorphone, meperidine, methadone, morphine sulfate, oxycodone (including acetaminophen, aspirin, and other combination products), oxymorphone, tapentadol, and tramadol.

⁵ R.C. 4732.43(A).

⁶ R.C. 4732.40(A).

- Evidence of receiving an earned doctoral degree in psychology;
- Proof of eligibility to receive a certificate to prescribe (see "**Eligibility**," below);
- Payment of a \$50 fee; and
- Any other information the Board requires.

The Board must review all applications received. If an application is complete and the Board determines that the applicant meets the requirements described above, the Board must issue the certificate to the applicant.⁷

Eligibility

To be eligible to receive a certificate to prescribe, an applicant must either be authorized to prescribe in any branch of the U.S. armed forces or do all of the following: (1) complete a course of study in clinical pharmacology approved by the Psychology Board in rules, (2) under the direction of a qualified prescriber, complete a period of clinical supervision in the psychopharmacological treatment of diverse patient populations (see "**Clinical supervision period**," below), and (3) pass the psychopharmacology examination for psychologists offered by the American Psychological Association Practice Organization's College of Professional Psychology.⁸

Clinical supervision period

With respect to the period of clinical supervision that an applicant must complete to be eligible for a certificate to prescribe, all of the following apply:⁹

- (1) The period must be at least one year;
- (2) The supervisor must be a qualified prescriber, defined by the bill as a physician (other than a podiatrist), a physician assistant with prescriptive authority, a certified nurse practitioner, a clinical nurse specialist, or another licensed psychologist holding a certificate to prescribe;
- (3) The supervisor must document the supervision arrangement in a written supervision plan;

⁷ R.C. 4732.40(B).

⁸ R.C. 4732.41.

⁹ R.C. 4732.411.

(4) The period must include treatment of at least 100 patients for whom medication management involving at least one drug the bill authorizes a certificate holder to prescribe is part of each patient's treatment plan;

(5) The supervision must be conducted in a manner that helps the applicant achieve clinical competence.

The bill requires the written supervision plan to include provisions that do all of the following:¹⁰

(1) Require the applicant to consult with a qualified prescriber regarding the medication management of each patient, with the prescriber having the responsibility to issue any prescription;

(2) Require the qualified prescriber to provide direct, on-site supervision of the applicant's practice at least one time each calendar month of the supervision period;

(3) Require the qualified prescriber to be available, either in person or by electronic means, for consultation with the applicant when treating a patient;

(4) Require the qualified prescriber to maintain a monthly record of the prescriber's supervisory activities for the relevant month, signed by the applicant and prescriber.

On the successful completion of a clinical supervision period, the qualified prescriber who supervised the applicant during the period must issue to the applicant signed documentation of the period's completion.¹¹

Clinical competencies

To be eligible for a certificate to prescribe, an applicant must demonstrate to the Psychology Board the following eight clinical competencies:¹²

(1) **Physical examination and mental status evaluation** – ability to execute a comprehensive and focused physical examination and mental status evaluation on patients of various developmental stages and backgrounds using appropriate instruments;

¹⁰ R.C. 4732.411(C).

¹¹ R.C. 4732.411(D).

¹² R.C. 4732.40(B).

(2) **Review of systems** – knowledge of and ability to systematically describe the process of integrating information learned from patient reports, signs, symptoms, and reviews of major body systems while recognizing normal developmental variations among patients;

(3) **Medical history interview and documentation** – ability to systematically conduct a patient or parent and caregiver clinical interview, produce a patient's medical, surgical, and psychiatric history in the context of the patient's family and cultural history, and communicate findings orally and in writing;

(4) **Assessment** – ability to order and interpret appropriate tests for the purpose of making a differential diagnosis and monitoring therapeutic and adverse effects of treatment;

(5) **Differential diagnosis** – ability to use appropriate processes, including established diagnostic criteria from the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, to determine primary and alternate diagnoses;

(6) **Integrated treatment planning** – ability to identify and select the most appropriate treatment alternatives and to sequence treatment within the larger biopsychosocial context;

(7) **Consultation and collaboration** – an understanding of the parameters of the role of a prescribing psychologist and the ability to work with other professionals in an advisory or collaborative manner to treat a patient;

(8) **Treatment management** – ability to apply, monitor, and modify treatments and to issue valid and complete prescriptions.

Duration and renewal

The bill specifies that a certificate to prescribe is valid for two years, unless otherwise provided in rules adopted by the Psychology Board or earlier suspended or revoked by the Board.¹³ The Board must renew a certificate to prescribe according to the procedures and renewal schedule specified in rules.¹⁴

To renew, a certificate holder must submit all of the following to the Board:¹⁵

¹³ R.C. 4732.42(A).

¹⁴ R.C. 4732.42(A).

¹⁵ R.C. 4732.42(B).



--Evidence of having completed during the previous two years at least 24 contact hours of continuing education in psychopharmacology or, if the certificate has been held for less than a full renewal period, the number of hours required by the Board in rules;

--The renewal fee specified in rules; and

--Any additional information the Board requires as specified in rules.

The 24 hours of continuing education are in addition to the other continuing education requirements applicable to psychologists under current law.¹⁶

In the case of a certificate holder who prescribes opioid analgesics or benzodiazepines, the holder also must certify to the Board that the holder has been granted access to OARRS (see "**Ohio Automated Rx Reporting System (OARRS)**," below).

Automatic suspension of a certificate to prescribe

If a license to practice psychology expires because the psychologist failed to renew the license, the bill specifies that the psychologist's certificate to prescribe is automatically suspended until the license is reinstated. And, if the Psychology Board revokes or suspends a license for disciplinary reasons, the certificate to prescribe is automatically revoked or suspended, as applicable. Likewise, if the Board places a limitation or restriction on a psychology license, the same limitation or restriction is placed on the psychologist's certificate to prescribe while the license remains limited or restricted.¹⁷

Prohibition on prescribing

The bill prohibits a person other than a licensed health professional authorized to prescribe drugs (a "prescriber") from prescribing, personally furnishing, or administering the drugs and therapeutic devices the bill authorizes a psychologist with a certificate to prescribe to prescribe, personally furnish, or administer.¹⁸

¹⁶ R.C. 4732.141, not in the bill.

¹⁷ R.C. 4732.42(D).

¹⁸ R.C. 4732.44.

Ohio Automated Rx Reporting System (OARRS)

Required review of patient information

A psychologist holding a certificate to prescribe must review patient information in OARRS when prescribing an opioid analgesic as part of the patient's treatment for drug addiction, prevention of relapse of drug addiction, or both, or a benzodiazepine as part of the patient's course of treatment for a particular condition.¹⁹ OARRS, or the Ohio Automated Rx Reporting System, is the name of the prescription drug monitoring database administered by the State Board of Pharmacy.

The psychologist or the psychologist's delegate must request information from OARRS regarding the patient's prescriptions for controlled substances over the previous 12 months. If the psychologist practices primarily in an Ohio county that adjoins another state, the psychologist or delegate must request a report of the information available in the other state's drug database pertaining to prescriptions issued or drugs furnished to the patient in the other state.²⁰

In addition, if the patient's course of treatment for the condition continues for more than 90 days after the initial report is requested, the psychologist or delegate must make periodic requests for reports of information from OARRS until the course of treatment has ended. The requests must be made at intervals not exceeding 90 days, determined according to the date the initial request was made. The request must be made in the same manner as the request for the initial report.²¹ On receipt of any OARRS report, the psychologist must assess the information in the report and document in the patient's record that the report was received and the information assessed.²²

Exceptions

A review of OARRS or another state's prescription drug monitoring database is not required in any of the following circumstances:²³

--The OARRS or database report is not available, in which case the psychologist must document in the patient's record the reason for the unavailability;

¹⁹ R.C. 4732.45.

²⁰ R.C. 4732.45(B)(1).

²¹ R.C. 4732.45(B)(2).

²² R.C. 4732.45(B)(3).

²³ R.C. 4732.45(C) and (D).



--The drug is prescribed in an amount indicated for a period not to exceed seven days;

--The drug is prescribed for the treatment of cancer or another condition associated with cancer;

--The drug is prescribed to a hospice patient in a hospice care program or to any other patient diagnosed as terminally ill;

--The drug is prescribed for administration in a hospital, nursing home, or residential care facility;

--The Pharmacy Board no longer maintains OARRS.

Rules

The bill requires the Psychology Board to adopt rules establishing standards and procedures for the review of patient information in OARRS by psychologists holding certificates to prescribe. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.).²⁴ But, the bill specifies that the rules do not apply if the Pharmacy Board no longer maintains OARRS.²⁵

Renewal requirement – OARRS access

If a psychologist prescribes opioid analgesics or benzodiazepines and is seeking renewal of a certificate to prescribe, the bill requires the certificate holder to certify to the Psychology Board that the holder has been granted access to OARRS. This requirement does not apply if the Pharmacy Board has notified the Psychology Board that the certificate holder has been restricted from obtaining further information from OARRS, the Pharmacy Board no longer maintains OARRS, or the certificate holder no longer practices psychology in Ohio.²⁶ The Psychology Board may take disciplinary action against a certificate holder if the holder certifies to the Board that he or she has been granted access to OARRS and the Board later determines that the holder in fact does *not* have that access.²⁷

Under current law, other prescribers of opioid analgesics and benzodiazepines must certify to their licensing boards, as a condition of renewal, that they have been

²⁴ R.C. 4732.45(D).

²⁵ R.C. 4732.45(E).

²⁶ R.C. 4732.42(C).

²⁷ R.C. 4732.17(A)(25).

granted access to OARRS. They also are required to review patient information in OARRS as part of their treatment of patients under the same conditions established by the bill for psychologists.²⁸

Rule-making authority

The bill requires the Psychology Board to adopt rules to administer and enforce its provisions concerning psychologist prescriptive authority. The rules must be adopted in accordance with the Administrative Procedure Act and establish or specify all of the following:²⁹

--Standards for approval of courses of study in clinical psychopharmacology;

--The practitioners who are qualified to supervise a psychologist during a period of clinical supervision in the psychopharmacological treatment of diverse patient populations and the duration of that period;

--Procedures and a schedule for renewing a certificate to prescribe;

--The number of hours of continuing education a certificate holder must complete if the certificate has been held for less than a full renewal cycle;

--The renewal fee;

--Any additional information the Board requires to renew a certificate to prescribe; and

--The therapeutic devices a psychologist may prescribe, personally furnish, or administer.

When adopting standards for approval of courses of study in clinical pharmacology, the Board must require a course of study to include instruction in basic life sciences, neurosciences, clinical and research pharmacology and psychopharmacology, clinical medicine and pathophysiology, physical assessment and laboratory examinations, clinical pharmacotherapeutics, research, and professional, ethical, and legal issues. The total length of the course of study may not be less than 425 contact hours.³⁰

²⁸ See, e.g., R.C. 4731.055 and 4731.281(A)(6).

²⁹ R.C. 4732.46(A).

³⁰ R.C. 4732.47.



In addition, the Board may adopt rules to specify the drugs, by name and national drug code, that are included in the classes of drugs that a certificate holder may prescribe, personally furnish, or administer.³¹

Disciplinary action

The bill adds grounds for which the Psychology Board may discipline a psychologist. Several of these grounds mirror those for which other licensing boards may discipline prescribers. Specifically, the bill authorizes the Board to impose disciplinary action for:³²

--Selling, giving away, or administering drugs or therapeutic devices for other than legal or legitimate therapeutic purposes; or conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, violation of any municipal, state, county, or federal drug law;

--The suspension or termination of employment by the U.S. Department of Defense or Department of Veterans Affairs for any act that violates or would violate the law governing psychologists;

--In the case of a psychologist who holds a certificate to prescribe, failure to prescribe, personally furnish, or administer drugs or therapeutic devices in accordance with the bill;

--Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;

--Assisting suicide;

--Failure to comply with law governing opioid analgesic prescriptions issued to minors;³³ and

--Failure to comply with the bill's requirements concerning the review of patient information in OARRS.

³¹ R.C. 4732.46(B).

³² R.C. 4732.17(A)(19) to (25).

³³ R.C. 3719.061, not in the bill.

Authority to direct care provided by licensed practical nurses

The bill authorizes a psychologist to direct the nursing care provided by a licensed practical nurse. The bill does not require the psychologist to hold a certificate to prescribe in order to do so. Under current law, registered nurses, physicians, physician assistants, dentists, podiatrists, optometrists, and chiropractors have authority to direct the nursing care provided by licensed practical nurses.³⁴

Conforming changes

As the bill establishes a certificate authorizing psychologists to prescribe, it makes a number of conforming changes to other provisions of current law. These changes pertain to the following topics.

Definition of "prescriber"

The bill specifies that the statutory meanings of "licensed health professional authorized to prescribe drugs" and "prescriber" include a psychologist who holds a certificate to prescribe, but only to the extent authorized by the bill.³⁵

Possession and sale of dangerous drugs

The bill adds psychologists holding certificates to prescribe to the list of persons who are not required to be licensed by the Pharmacy Board as a condition of being authorized to possess certain drugs.³⁶

Drug offenses

The bill adds psychologists who prescribe, personally furnish, or administer controlled substances in accordance with the bill to the list of prescribers to whom the following criminal offenses do not apply: corrupting another with drugs, aggravated trafficking in drugs, aggravated possession of drugs, possession of drugs, possessing drug abuse instruments, use or possession of drug paraphernalia, illegal processing of drug documents, and illegal dispensing of drug samples.³⁷

³⁴ R.C. 4723.01(F).

³⁵ R.C. 4729.01(I)(6).

³⁶ R.C. 4729.51(E).

³⁷ R.C. 2925.02(B), 2925.03(B)(1), 2925.11(B)(1), 2925.12(B), 2925.14(D)(1), 2925.23(E), and 2925.36(B).

Access to drugs during emergencies that affect the public health

The bill includes psychologists holding certificates to prescribe in the list of health care professionals who are authorized to administer, deliver, or distribute drugs (other than schedule II and III controlled substances) when the Governor has declared the existence of an emergency affecting the public health.³⁸

Drug repository program

The bill specifies that a psychologist who holds a certificate to prescribe is a "health care professional" for purposes of law governing the drug repository program established by the Pharmacy Board. Accordingly, such a psychologist has qualified immunity from civil liability for an action or omission associated with the psychologist's acceptance or dispensing of a drug under the program.³⁹

Controlled substances law

The bill specifies that a psychologist who holds a certificate to prescribe may prescribe, personally furnish, or administer a controlled substance only if it is in a class of drugs specified by the bill.⁴⁰

Prosecutor's report

The bill requires a prosecutor to report to the Psychology Board when a psychologist is convicted of a drug crime. Under existing law, a prosecutor must make similar reports if other health care professionals who prescribe or work in an environment where drugs could be present are convicted of such a crime.⁴¹

License suspension for controlled substance addiction

The bill requires the Psychology Board to suspend a psychologist's license if the psychologist is addicted or becomes addicted to a controlled substance. Health care professionals who prescribe or work in an environment where drugs could be present are subject to a similar provision under existing law.⁴²

³⁸ R.C. 3701.048(B)(11).

³⁹ R.C. 3715.872(A)(7) and (B)(3).

⁴⁰ R.C. 3719.06(A)(4).

⁴¹ R.C. 3719.12.

⁴² R.C. 3719.121(A).

Sample drugs

The bill specifies that law authorizing drug manufacturers, manufacturers' representatives, and wholesale dealers in pharmaceuticals to furnish sample drugs to prescribers does not authorize a psychologist holding a certificate to prescribe to furnish a sample drug that the professional is not otherwise authorized to prescribe to a patient. A similar provision applies under existing law to clinical nurse specialists, certified nurse-midwives, certified nurse practitioners, optometrists, and physician assistants.⁴³

Assisted suicide

Under the bill, a psychologist is a "health care professional" for purposes of the law prohibiting assisted suicide. It also provides that a psychologist, acting within his or her scope of practice, is not prohibited from dispensing, administering, or causing to be administered any particular medical procedure, treatment, intervention, or other measure to the patient as a means of providing comfort care. This includes personally furnishing, administering, or causing to be administered any form of medication for the purpose of diminishing the patient's pain or discomfort and not for the purpose of postponing or causing the patient's death.⁴⁴

Pain management clinics

The bill specifies that a "pain management clinic" does not include a school, college, university, or other educational institution or program to the extent it provides instruction for individuals preparing to practice as psychologists.⁴⁵

In-home care provided to persons with developmental disabilities

Under the bill, a psychologist who holds a certificate to prescribe is a "health care professional" for purposes of the law governing who may provide a prescription or written instructions to a family member who desires to obtain unlicensed in-home care for a relative with developmental disabilities.⁴⁶

⁴³ R.C. 3719.81(C)(2).

⁴⁴ R.C. 3795.01; R.C. 3795.03(B), not in the bill.

⁴⁵ R.C. 4731.054(A)(5)(b).

⁴⁶ R.C. 5123.47(A)(5)(g).

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