

SENATE BILL 127

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

William P. Soules

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO LICENSING; AMENDING THE PROFESSIONAL PSYCHOLOGIST ACT; AMENDING DEFINITIONS; AMENDING THE STRUCTURE OF THE NEW MEXICO STATE BOARD OF PSYCHOLOGIST EXAMINERS; CLARIFYING TERMS; ALLOWING A PRESCRIBING PSYCHOLOGIST TO PRESCRIBE AND ADMINISTER INTRAMUSCULAR AND SUBCUTANEOUS INJECTIONS; CREATING A COMMITTEE TO EVALUATE LICENSING COMPLAINTS AGAINST PRESCRIBING PSYCHOLOGISTS.

.226676.3AIC February 1, 2024 (12:56pm)

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 61-9-3 NMSA 1978 (being Laws 1963, Chapter 92, Section 3, as amended) is amended to read:

"61-9-3. DEFINITIONS.--As used in the Professional Psychologist Act:

- A. "board" means the New Mexico state board of psychologist examiners;
- B. "conditional prescription certificate" means a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication under the supervision of a supervising clinician pursuant to the Professional Psychologist Act;
- C. "independently licensed prescribing clinician" means a licensed physician, osteopathic physician, nurse practitioner, psychiatric nurse practitioner or clinical nurse specialist;
- D. "person" includes an individual, firm, partnership, association or corporation;
- E. "prescribing psychologist" means a licensed psychologist who holds a valid prescription certificate;
- F. "prescription certificate" means a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication pursuant to the Professional Psychologist Act;
- G. "psychotropic medication" means a controlled substance or dangerous drug that may not be dispensed or

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administered without a prescription [~~and whose primary indication for use has been approved by the federal food and drug administration for the treatment of mental disorders or is listed as a psychotherapeutic agent in *Drug Facts and Comparisons 2017*, or the most recent edition of that book, or in *American Hospital Formulary Service Drug Information*] but is limited to only those agents related to the diagnosis and treatment or management of mental, nervous, emotional, behavioral, substance use or cognitive disorders, including the management of or protection from side effects that SHPAC→are a direct←SHPAC result from the use of those agents, whose use is consistent with the standards of practice for clinical psychopharmacology;~~

H. "psychologist" means a person who engages in the practice of psychology or holds the person's self out to the public by any title or description of services representing the person as a psychologist, which incorporates the words "psychological", "psychologist", "psychology", or when a person describes the person's self as above and, under such title or description, offers to render or renders services involving the application of principles, methods and procedures of the science and profession of psychology to persons for compensation or other personal gain;

I. "practice of psychology" means the observation, description, evaluation, interpretation and modification of

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human behavior by the application of psychological principles, methods and procedures for the purpose of preventing or eliminating symptomatic, maladaptive or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health and mental health, and further means the rendering of such psychological services to individuals, families or groups regardless of whether payment is received for services rendered. The practice of psychology includes psychological testing or neuropsychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, behavior analysis and therapy; diagnosis and treatment of a mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct and the psychological aspects of physical illness, accident, injury and disability; and psychoeducational evaluation, therapy, remediation and consultation;

J. "school" or "college" means a university or other institution of higher education that is regionally accredited and that offers a full-time graduate course of study in psychology as defined by rule of the board or that is approved by the American psychological association; and

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K. "supervising clinician" means a licensed physician, osteopathic physician, prescribing psychologist who has at least four years of independent experience prescribing psychotropic medication to treat behavioral and emotional conditions and mental illness, nurse practitioner, psychiatric nurse practitioner or clinical nurse specialist who is supervising a psychologist in the prescribing of psychotropic medication."

SECTION 2. Section 61-9-5 NMSA 1978 (being Laws 1989, Chapter 41, Section 5, as amended) is amended to read:

"61-9-5. STATE BOARD OF EXAMINERS--PSYCHOLOGY FUND.--

A. There is created a "New Mexico state board of psychologist examiners". The board shall be administratively attached to the regulation and licensing department. The board shall consist of eight members appointed by the governor who are residents of New Mexico and who shall serve for three-year staggered terms. The members shall be appointed as follows:

(1) four members shall be professional members who are licensed under the Professional Psychologist Act as psychologists, of which two members shall be prescribing psychologists. The governor shall appoint the professional members from a list of names nominated by the New Mexico psychological association, the state psychologist association and the New Mexico school psychologist association;

(2) one member shall be licensed under the

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Professional Psychologist Act as a psychologist or psychologist associate; and

(3) three members shall be public members who are [~~laymen~~] laypersons and have no significant financial interest, direct or indirect, in the practice of psychology.

B. A member shall hold office until the expiration of [~~his~~] the member's appointed term or until a successor is duly appointed. When the term of a member ends, the governor shall appoint [~~his~~] a successor for a term of three years. A vacancy occurring in the board membership other than by expiration of term shall be filled by the governor by appointment for the unexpired term of the member. The governor may remove a board member for misconduct, incompetency or neglect of duty.

C. All money received by the board shall be credited to the "psychology fund". Money in the psychology fund at the end of the fiscal year shall not revert to the general fund and shall be used in accordance with the provisions of the Professional Psychologist Act. The members of the board may be reimbursed as provided in the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance."

SECTION 3. Section 61-9-17.1 NMSA 1978 (being Laws 2002, Chapter 100, Section 6, as amended) is amended to read:

"61-9-17.1. **CONDITIONAL PRESCRIPTION CERTIFICATE--**

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PRESCRIPTION CERTIFICATE--APPLICATION--REQUIREMENTS--RULEMAKING
BY BOARD--ISSUANCE, DENIAL, RENEWAL AND REVOCATION OF
CERTIFICATION.--

A. A psychologist may apply to the board for a conditional prescription certificate. The application shall be made on a form approved by the board and be accompanied by evidence satisfactory to the board that the applicant:

(1) has completed a doctoral program in psychology from an accredited institution of higher education or professional school, or, if the program was not accredited at the time of the applicant's graduation, that the program meets professional standards determined acceptable by the board;

(2) holds a current license to practice psychology in New Mexico;

(3) has successfully completed pharmacological training from an institution of higher education approved by the board and the New Mexico medical board or from a provider of continuing education approved by the board and the New Mexico medical board;

(4) has passed a national certification examination approved by the board and the New Mexico medical board that tests the applicant's knowledge of pharmacology in the diagnosis, care and treatment of mental disorders;

(5) within the five years immediately

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preceding the date of application, has successfully completed an organized program of education approved by the board and the New Mexico medical board and consisting of didactic instruction of no ~~fewer~~ less than four hundred fifty classroom hours in at least the following core areas of instruction:

- (a) neuroscience;
- (b) pharmacology;
- (c) psychopharmacology;
- (d) physiology;
- (e) pathophysiology;
- (f) appropriate and relevant physical and laboratory assessment; and
- (g) clinical pharmacotherapeutics;

(6) within the five years immediately preceding the date of application, has been certified by each of the applicant's supervising independently licensed prescribing clinicians as having successfully completed a supervised and relevant clinical experience, approved by the board and the New Mexico medical board, of:

(a) no less than an eighty-hour practicum in clinical assessment and pathophysiology under the supervision of an independently licensed prescribing ~~physician~~ clinician; and

(b) an additional supervised practicum of at least four hundred hours treating no fewer than one

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hundred patients with mental disorders, the practice to have been supervised by any one or a combination of a psychiatrist or other appropriately trained independently licensed prescribing ~~[physician]~~ clinician and determined by the board and the New Mexico medical board to be sufficient to competently train the applicant in the treatment of a diverse patient population. One-to-one supervision shall be provided either face-to-face, telephonically or by video conference;

(7) has malpractice insurance in place, sufficient to satisfy the rules adopted by the board and the New Mexico medical board, that will cover the applicant during the period the conditional prescription certificate is in effect; and

(8) meets all other requirements, as determined by rule of the board, for obtaining a conditional prescription certificate.

B. The board shall issue a conditional prescription certificate if it finds that the applicant has met the requirements of Subsection A of this section. The certificate shall be valid for a period of two years, at the end of which the holder may again apply pursuant to the provisions of Subsection A of this section. A psychologist with a conditional prescription certificate may prescribe psychotropic medication under the supervision of a supervising clinician subject to the following conditions:

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(1) the psychologist shall continue to hold a current license to practice psychology in New Mexico and continue to maintain malpractice insurance;

(2) the psychologist shall notify the board of the name of the psychologist's supervising clinician; and

(3) a supervising clinician shall notify the supervising clinician's own licensing board of the name of each psychologist under the supervising clinician's supervision.

C. A supervising clinician shall not be liable for the acts of a psychologist under the supervising clinician's supervision unless the injury or loss arises from those acts under the direction and control of the supervising clinician.

D. A psychologist may apply to the board for a prescription certificate. The application shall be made on a form approved by the board and be accompanied by evidence satisfactory to the board that the applicant:

(1) has been issued a conditional prescription certificate and has successfully completed two years of prescribing psychotropic medication as certified by the supervising clinician;

(2) has successfully undergone a process of independent peer review approved by the board and the New Mexico medical board;

(3) holds a current license to practice psychology in New Mexico;

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(4) has malpractice insurance in place, sufficient to satisfy the rules adopted by the board, that will cover the applicant as a prescribing psychologist; and

(5) meets all other requirements, as determined by rule of the board, for obtaining a prescription certificate.

E. The board shall issue a prescription certificate if it finds that the applicant has met the requirements of Subsection D of this section. A psychologist with a prescription certificate may prescribe psychotropic medication pursuant to the provisions of the Professional Psychologist Act if the psychologist:

(1) continues to hold a current license to practice psychology in New Mexico and continues to maintain malpractice insurance; and

(2) annually satisfies the continuing education requirements for prescribing psychologists, as set by the board, which shall be no fewer than twenty hours each year.

F. The board shall promulgate rules providing for the procedures to be followed in obtaining a conditional prescription certificate, a prescription certificate and renewals of a prescription certificate. The board may set reasonable application and renewal fees.

G. The board shall promulgate rules establishing the grounds for denial, suspension or revocation of conditional

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prescription certificates and prescription certificates authorized to be issued pursuant to this section, including a provision for suspension or revocation of a license to practice psychology upon suspension or revocation of a certificate. Actions of denial, suspension or revocation of a certificate shall be in accordance with the Uniform Licensing Act."

SECTION 4. Section 61-9-17.2 NMSA 1978 (being Laws 2002, Chapter 100, Section 7, as amended) is amended to read:

"61-9-17.2. PRESCRIBING PRACTICES.--

A. A prescribing psychologist or a psychologist with a conditional prescription certificate may administer and prescribe psychotropic medication within the recognized scope of the profession, including the ordering and review of laboratory tests in conjunction with the prescription, for the treatment of mental disorders.

B. When prescribing psychotropic medication for a patient, the prescribing psychologist or the psychologist with a conditional prescription certificate shall maintain an ongoing collaborative relationship with the health care practitioner who oversees the patient's general medical care to ensure that necessary medical examinations are conducted, the psychotropic medication is appropriate for the patient's medical condition and significant changes in the patient's medical or psychological condition are discussed.

C. The ongoing collaborative relationship shall be

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maintained pursuant to guidelines developed by the board and the New Mexico medical board, which shall optimize patient care.

D. The guidelines shall ensure that the prescribing psychologist or the psychologist with a conditional prescription certificate and the health care practitioner coordinate, and collaborate on, the care of the patient to provide optimal care. Nothing in this subsection shall require a prescribing psychologist or psychologist with a conditional prescription certificate to give prior notice to or obtain prior approval from a health care practitioner to prescribe psychotropic medication to a patient with whom the prescribing psychologist has established a psychologist-patient relationship; provided that the psychologist provides written notice of the prescription to the health care practitioner within twenty-four hours of its issuance to such patient.

~~[E. A committee composed of members of the board and the New Mexico medical board shall be established and, pursuant to the guidelines, shall evaluate complaints. The committee shall report its findings and recommendations to each board for each board's appropriate actions.]~~

SHPAC → E. A psychologist with a conditional prescription certificate may prescribe and administer psychotropic intramuscular injections and subcutaneous injections to include antipsychotic medications and:

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~~(1) injectable medication used in the treatment of substance use disorders under the supervision of a supervising clinician and upon completion of advanced training;~~
~~or~~

~~(2) injectable medication used in the treatment of substance use disorders upon completion of board-approved training.~~ ←SHPAC

SHPAC → E. If a prescribing psychologist or psychologist with a conditional prescription certificate deems it necessary to prescribe drugs for the management of or protection from side effects that are a direct result of psychotropic medication, the prescribing psychologist or psychologist with a conditional prescription certificate shall notify and discuss with the health care practitioner who oversees the patient's general medical care within twenty business days of issuance of the prescription.

F. A psychologist with a conditional prescription certificate may prescribe and administer psychotropic medication injections under the supervision of a supervising clinician and upon completion of board-approved training.

G. A prescribing psychologist may prescribe and administer psychotropic medication injections upon completion of board-approved training. ←SHPAC

SHPAC → F. ←SHPAC SHPAC → H. ←SHPAC A committee

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composed of two prescribing psychologist members of the board
SHPAC→or their designees←SHPAC and two members of the New
Mexico medical board SHPAC→or their designees←SHPAC shall be
established and, pursuant to the guidelines, shall evaluate
licensing complaints against prescribing psychologists and
report its findings and recommendations to each board for
appropriate action. The committee shall develop education
requirements for expanded practice and present these
requirements to each board for approval. SHPAC→The committee
shall conduct quarterly reviews of and provide a quarterly
report to the respective boards regarding the prescribing
psychologist scope of practice expansion that permits
prescribing authority to manage or protect from side effects
that are a direct result of psychotropic medication.←SHPAC

[F.] SHPAC→G.←SHPAC SHPAC→I.←SHPAC A prescription
written by a prescribing psychologist or a psychologist with a
conditional prescription certificate shall:

- (1) comply with applicable state and federal
laws;
- (2) be identified as issued by the
psychologist as "psychologist certified to prescribe"; and
- (3) include the psychologist's board-assigned
identification number.

[G.] SHPAC→H.←SHPAC SHPAC→J.←SHPAC A prescribing
psychologist or a psychologist with a conditional prescription

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certificate shall not delegate prescriptive authority to any other person. Records of all prescriptions shall be maintained in patient records.

[H.] SHPAC→I.←SHPAC SHPAC→K.←SHPAC When authorized to prescribe controlled substances, a prescribing psychologist or a psychologist with a conditional prescription certificate shall file with the board in a timely manner all individual federal drug enforcement administration registrations and numbers. The board and the New Mexico medical board shall maintain current records on every psychologist, including federal registrations and numbers.

[I.] SHPAC→J.←SHPAC SHPAC→L.←SHPAC The board shall provide to the board of pharmacy and the New Mexico medical board an annual list of prescribing psychologists and psychologists with conditional prescription certificates that contains the information agreed upon [~~between~~] among the board, the New Mexico medical board and the board of pharmacy. The board shall promptly notify the board of pharmacy of psychologists who are added to or deleted from the list.

[J.] SHPAC→K.←SHPAC SHPAC→M.←SHPAC For the purpose of this section:

(1) "collaborative relationship" means a cooperative working relationship between a prescribing psychologist or a psychologist with a conditional prescription certificate and a health care practitioner in the provision of

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patient care, including diagnosis and cooperation in the management and delivery of physical and mental health care; and

(2) "health care practitioner" means a physician, osteopathic physician, nurse practitioner, physician assistant or clinical nurse specialist."

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2024.