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Bill Analysis

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SUMMARY

- Authorizes certain psychologists to prescribe drugs and therapeutic 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 certificate holder to enter into a written collaborative agreement with a physician and requires the collaborating physician to review the holder's prescribing practices.
- Requires the Psychology Board to establish an exclusionary drug formulary specifying the drugs and devices a certificate holder is **not** authorized to prescribe.
- Establishes the Committee on Psychopharmacology and requires it to develop for the Psychology Board a recommended exclusionary formulary.
- Requires a certificate holder to review patient information in the Ohio Automated Rx Reporting System (OARRS) as a condition of treating patients with benzodiazepines or other controlled substances.
- 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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DETAILED ANALYSIS

Prescriptive authority for psychologists

Scope

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

--Prescribing, personally furnishing, or administering any drug or device other than one listed on the exclusionary formulary established in Board rules;

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

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

Exclusionary drug formulary

In general, a certificate holder may prescribe, personally furnish, or administer a drug or therapeutic device so long as the drug or device is **not** listed on the exclusionary drug formulary established by the Psychology Board in rule.² Under the bill, the exclusionary formulary must not permit the prescribing or furnishing of any of the following:³

--Controlled substances, except those that are (1) benzodiazepines or (2) approved by the federal Food and Drug Administration to treat a behavioral health condition;

--A drug or device to perform or induce an abortion;

--A drug or device that is prohibited by federal or state law.

In addition, the bill specifies that the exclusionary formulary must permit the prescribing of oral and long-acting opioid antagonists in accordance with American Society of Addiction Medicine's national practice guideline for the use of medications in the treatment of addiction involving opioid use.

Prohibition on prescribing

The bill prohibits a psychologist from prescribing, personally furnishing, or administering a drug or therapeutic device unless the psychologist holds a certificate to prescribe. It also prohibits a psychologist who holds such a certificate from prescribing, personally furnishing, or

¹ R.C. 4732.43.

² R.C. 4732.43(A).

³ R.C. 4732.43(B).

administering a drug or device listed on the exclusionary formulary established by the Board.⁴ Any psychologist who violates either of these prohibitions is subject to a fine of \$100 to \$500, imprisonment for six months to one year, or both a fine and imprisonment.⁵

Collaboration with a physician

A psychologist holding a certificate to prescribe may prescribe a drug or device only if the psychologist has entered into a collaborative agreement with a collaborating physician.⁶ A certificate holder may enter into a collaborative agreement with one or more physicians. A physician, however, is prohibited from entering into collaborative agreements with more than three certificate holders at any one time.⁷

Under the bill, “collaboration” or “collaborating” means that one or more physicians with whom the certificate holder has entered into a collaborative agreement are continuously available to communicate with the certificate holder either in person or by telephone, videoconferencing, or other electronic means.⁸

Collaborative agreement

A collaborative agreement is a written, formal guide for planning and evaluating the prescribing component of a certificate holder’s practice.⁹ It is developed by the one or more collaborating physicians and certificate holder and must contain the following:¹⁰

--A process for the certificate holder to obtain a consultation with or referral to a collaborating physician;

--A plan for coverage in cases of emergency or planned absence of either the certificate holder or collaborating physician that provides the means whereby a physician is available for assistance;

--The process for resolution of disagreements between the certificate holder and collaborating physician regarding prescribing practices; and

--Any other criteria required by Board rule.

A copy of the agreement must be on file at the location where the certificate holder practices. The Psychology Board may periodically review the agreement for compliance with the bill’s provisions.

⁴ R.C. 4732.44.

⁵ R.C. 4732.99.

⁶ R.C. 4732.431.

⁷ R.C. 4732.431(A).

⁸ R.C. 4732.01(M).

⁹ R.C. 4732.01(N).

¹⁰ R.C. 4732.01(N) and 4732.431(B).

Physician duties

A physician must do both of the following for each certificate holder with whom the physician collaborates and has entered into a collaborative agreement:¹¹

--Review on a routine basis the certificate holder's orders for medication, therapeutic devices, laboratory tests, and procedures;

--Consult with the certificate holder in person at least monthly to address the holder's prescribing practices and to review them for safety and quality.

Certificate holder duties

The bill requires a certificate holder to inform each collaborating physician of any other collaborative agreements the holder has entered into with other physicians and to provide the collaborating physician with copies of those agreements.¹²

The certificate holder also must submit to the Psychology Board the name and business address of each collaborating physician. The holder must notify the Board of any additions or deletions to the holder's physicians. The notice must be provided not later than 30 days after the change takes effect.¹³

Termination

If either a certificate holder or collaborating physician terminates the collaboration before the agreement expires, then the individual who terminated the agreement must give the other written or electronic notice. Once an individual receives a termination notice, the individual must notify the Psychology Board as soon as practicable.¹⁴

Certificate to prescribe –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:¹⁵

--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;

¹¹ R.C. 4732.431(C).

¹² R.C. 4732.431(A).

¹³ R.C. 4732.431(A).

¹⁴ R.C. 4732.431(D).

¹⁵ R.C. 4732.40(A).

- Evidence of receiving an earned doctoral degree in psychology;
- Evidence of receiving an earned master's degree in psychopharmacology;
- Evidence of having completed a course of study in at least six of the following subjects: general biology, cellular biology, microbiology, chemistry, biochemistry, human physiology, human anatomy, and genetics;¹⁶
- 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.¹⁷

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 both of the following: (1) complete a period of clinical supervision in the psychopharmacological treatment of diverse patient populations (see "**Clinical supervision period**," below) and (2) pass the psychopharmacology examination for psychologists offered by the Association of State and Provincial Psychology Boards.¹⁸

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:¹⁹

1. The period must consist of at least 700 clinical hours of training, with the first 350 hours under the supervision of a psychiatrist and the remaining hours under the supervision of a psychiatrist or other physician;
2. The clinical supervision must be documented in a written supervision plan;
3. The supervision must be conducted in a manner that helps the applicant achieve the clinical competencies (see "**Clinical competencies**" below).

¹⁶ Under the bill, an applicant has five years from the bill's effective date to provide evidence of completing both the master's degree and course of study requirements. See R.C. 4732.401.

¹⁷ R.C. 4732.40(B).

¹⁸ R.C. 4732.41.

¹⁹ R.C. 4732.411.

The bill requires the written supervision plan to include provisions that do all of the following:²⁰

1. Require the applicant to consult with a physician regarding the medication management of each patient, with the physician maintaining independent authority to select appropriate medication and having the responsibility to issue any prescription;
2. Require the physician 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 physician to be available, either in person or by telephone, videoconferencing, or other electronic means, for consultation with the applicant anytime the applicant treats a patient;
4. Require the physician 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 physician who supervised the applicant during the period must issue to the applicant a signed document attesting to the applicant's successful completion.²¹

Clinical competencies

To be eligible for a certificate to prescribe, an applicant must demonstrate to the Psychology Board the following eight clinical competencies:²²

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;
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;

²⁰ R.C. 4732.411(B).

²¹ R.C. 4732.411(C).

²² R.C. 4732.40(B).

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.

Certificate 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.²³ The Board must renew a certificate to prescribe according to the procedures and renewal schedule specified in rules.²⁴

To renew, a certificate holder must submit all of the following to the Board:²⁵

--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.²⁶

In the case of a certificate holder who prescribes benzodiazepines or other controlled substances, 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

²³ R.C. 4732.42(A).

²⁴ R.C. 4732.42(A).

²⁵ R.C. 4732.42(B).

²⁶ R.C. 4732.141, not in the bill.

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.²⁷

Ohio Automated Rx Reporting System (OARRS)

Required review of patient information

A psychologist holding a certificate to prescribe must review patient information in the Ohio Automated Rx Reporting System when prescribing a benzodiazepine or other controlled substance.²⁸ (The Ohio Automated Rx Reporting System, also known as OARRS, is 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 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.²⁹

In addition, if the patient's course of treatment 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.³⁰ 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.³¹

Exceptions

A review of OARRS or another state's prescription drug monitoring database is not required in any of the following circumstances:³²

--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;

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

²⁷ R.C. 4732.42(D).

²⁸ R.C. 4732.45.

²⁹ R.C. 4732.45(B)(1).

³⁰ R.C. 4732.45(B)(2).

³¹ R.C. 4732.45(B)(3).

³² R.C. 4732.45(C) and (D).

--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.

Renewal requirement – OARRS access

If a psychologist prescribes benzodiazepines or other controlled substances 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.³³ 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.³⁴

Under current law, prescribers of benzodiazepines and other controlled substances must certify to their licensing boards, as a condition of renewal, that they have been granted access to OARRS. They also are required to review patient information in OARRS under the same conditions established by the bill for psychologists.³⁵

State Board of Psychology

Committee on Psychopharmacology

The bill establishes the Committee on Psychopharmacology to develop for the Psychology Board a recommended exclusionary drug formulary, specifying the drugs and therapeutic devices that a psychologist cannot prescribe, personally furnish, or administer under a certificate to prescribe.³⁶

The Committee must submit to the Board at least twice a year a recommended formulary for the Board's approval.³⁷ After reviewing a formulary submitted by the Committee, the Board may either adopt the formulary as a rule or request the Committee to reconsider it

³³ R.C. 4732.42(C)(1).

³⁴ R.C. 4732.42(C)(2).

³⁵ See, e.g., R.C. 4731.055 and 4731.281(A)(6).

³⁶ R.C. 4732.50 and 4732.502.

³⁷ R.C. 4732.502.

and submit a new formulary.³⁸ The Committee must then reconsider the formulary and submit a new one.³⁹ The bill prohibits the Board from adopting any rule that does not conform to a recommended formulary developed by the Committee.⁴⁰

Membership and appointments

The Committee on Psychopharmacology is to consist of the following members:⁴¹

--Four psychologists who each hold certificates to prescribe, nominated by the Ohio Psychological Association;

--Three physicians nominated by the Ohio State Medical Association;

--One pharmacist nominated by the Ohio Pharmacists Association.

The bill requires the Psychology Board to appoint the psychologist members, the State Medical Board to appoint the physician members, and the Pharmacy Board to appoint the pharmacist member.

Initial appointments must be made not later than 60 days after the bill's effective date. Some of the initial appointments are for one year, while others are for two years. Thereafter, each member serves a two-year term. Members may be reappointed for one additional term only.

Committee vacancies must be filled in the same manner as appointments. When the term of any member expires, a successor must be appointed in the same manner as the initial appointment. Any member appointed to fill a vacancy holds office for the remainder of the term. A member must continue in office after the expiration of the member's term until the member's successor takes office or a period of 60 days has elapsed, whichever occurs first.

Chairpersons, official business, and compensation

The bill requires the Committee to meet every six months beginning not later than six months after the bill's effective date.⁴² The Committee must select a chairperson from among the psychologist members. It may select a new chairperson at any time.⁴³

The Committee may transact official business if at least five members are present. The pharmacist member may participate in any meeting, but is not a voting member. In the event of

³⁸ R.C. 4732.46(B).

³⁹ R.C. 4732.502.

⁴⁰ R.C. 4732.46(B).

⁴¹ R.C. 4732.50.

⁴² R.C. 4732.501(D).

⁴³ R.C. 4732.501(A).

a tie vote, the chairperson must notify the Psychology Board of the tie. Under the bill, the Board casts the deciding vote following a Board meeting.⁴⁴

Members are to serve without compensation but must be reimbursed for their actual and necessary expenses incurred in the performance of official Committee duties. The expenses are to be paid by the Psychology Board.⁴⁵

Annual edition of drug formulary

The Board must make an annual edition of the exclusionary drug formulary available to the public by electronic means. The bill also requires the Board to make revised editions of the formulary available to the public as soon as practicable after the revision becomes effective.⁴⁶

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:⁴⁷

--Standards and procedures for the review of patient information in OARRS by psychologists holding certificates to prescribe;⁴⁸

--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; and

--Any additional information the Board requires for renewal of a certificate to prescribe.

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 the following:⁴⁹

--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

⁴⁴ R.C. 4732.501(B).

⁴⁵ R.C. 4732.501(C).

⁴⁶ R.C. 4732.503.

⁴⁷ R.C. 4732.46.

⁴⁸ R.C. 4732.45(D).

⁴⁹ R.C. 4732.17(A)(19) to (24).

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; and

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

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.⁵⁰

Conforming changes

Because the bill establishes a certificate authorizing psychologists to prescribe, it makes a number of conforming changes to other provisions of current law.⁵¹

HISTORY

Action	Date
Introduced	08-28-19

H0323-I-133/ts

⁵⁰ R.C. 4723.01(F).

⁵¹ R.C. 2925.02, 2925.03, 2925.11, 2925.12, 2925.14, 2925.23, and 2925.36 (drug offenses); R.C. 3701.048 (access to drug during public health emergencies); R.C. 3715.872 (drug repository program); R.C. 3719.06 (authority to prescribe controlled substances); R.C. 3719.12 (prosecutor's report); R.C. 3719.121 (license suspension for controlled substance addiction); R.C. 3719.81 (sample drugs); R.C. 3795.01 (assisted suicide); R.C. 4729.01 (prescriber definition); R.C. 4729.51 (possession and sale of prescription drugs); R.C. 4731.054 (pain management clinics); R.C. 5123.47 (in-home care for the developmentally disabled).