

1 SENATE BILL 127

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

3 INTRODUCED BY

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10 AN ACT

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

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

22 "61-9-3. DEFINITIONS.--As used in the Professional
23 Psychologist Act:

24 A. "board" means the New Mexico state board of
25 psychologist examiners;

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1 B. "conditional prescription certificate" means a
2 document issued by the board to a licensed psychologist that
3 permits the holder to prescribe psychotropic medication under
4 the supervision of a supervising clinician pursuant to the
5 Professional Psychologist Act;

6 C. "independently licensed prescribing clinician"
7 means a licensed physician, osteopathic physician, nurse
8 practitioner, psychiatric nurse practitioner or clinical nurse
9 specialist;

10 D. "person" includes an individual, firm,
11 partnership, association or corporation;

12 E. "prescribing psychologist" means a licensed
13 psychologist who holds a valid prescription certificate;

14 F. "prescription certificate" means a document
15 issued by the board to a licensed psychologist that permits the
16 holder to prescribe psychotropic medication pursuant to the
17 Professional Psychologist Act;

18 G. "psychotropic medication" means a controlled
19 substance or dangerous drug that may not be dispensed or
20 administered without a prescription [~~and whose primary~~
21 ~~indication for use has been approved by the federal food and~~
22 ~~drug administration for the treatment of mental disorders or is~~
23 ~~listed as a psychotherapeutic agent in *Drug Facts and*~~
24 ~~*Comparisons 2017*, or the most recent edition of that book, or~~
25 ~~in *American Hospital Formulary Service Drug Information*] but is~~

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1 limited to only those agents related to the diagnosis and
2 treatment or management of mental, nervous, emotional,
3 behavioral, substance use or cognitive disorders, including the
4 management of or protection from side effects that result from
5 the use of those agents, whose use is consistent with the
6 standards of practice for clinical psychopharmacology;

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

17 I. "practice of psychology" means the observation,
18 description, evaluation, interpretation and modification of
19 human behavior by the application of psychological principles,
20 methods and procedures for the purpose of preventing or
21 eliminating symptomatic, maladaptive or undesired behavior and
22 of enhancing interpersonal relationships, work and life
23 adjustment, personal effectiveness, behavioral health and
24 mental health, and further means the rendering of such
25 psychological services to individuals, families or groups

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1 regardless of whether payment is received for services
2 rendered. The practice of psychology includes psychological
3 testing or neuropsychological testing and the evaluation or
4 assessment of personal characteristics such as intelligence,
5 personality, abilities, interests, aptitudes and
6 neuropsychological functioning; counseling, psychoanalysis,
7 psychotherapy, hypnosis, biofeedback, behavior analysis and
8 therapy; diagnosis and treatment of a mental and emotional
9 disorder or disability, alcoholism and substance abuse,
10 disorders of habit or conduct and the psychological aspects of
11 physical illness, accident, injury and disability; and
12 psychoeducational evaluation, therapy, remediation and
13 consultation;

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

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

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1 medication."

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

4 "61-9-5. STATE BOARD OF EXAMINERS--PSYCHOLOGY FUND.--

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

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

18 (2) one member shall be licensed under the
19 Professional Psychologist Act as a psychologist or psychologist
20 associate; and

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

24 B. A member shall hold office until the expiration
25 of [~~his~~] the member's appointed term or until a successor is

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1 duly appointed. When the term of a member ends, the governor
2 shall appoint [~~his~~] a successor for a term of three years. A
3 vacancy occurring in the board membership other than by
4 expiration of term shall be filled by the governor by
5 appointment for the unexpired term of the member. The governor
6 may remove a board member for misconduct, incompetency or
7 neglect of duty.

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

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

18 "61-9-17.1. CONDITIONAL PRESCRIPTION CERTIFICATE--
19 PRESCRIPTION CERTIFICATE--APPLICATION--REQUIREMENTS--RULEMAKING
20 BY BOARD--ISSUANCE, DENIAL, RENEWAL AND REVOCATION OF
21 CERTIFICATION.--

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

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

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

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

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

18 (5) within the five years immediately
19 preceding the date of application, has successfully completed
20 an organized program of education approved by the board and the
21 New Mexico medical board and consisting of didactic instruction
22 of no ~~fewer~~ less than four hundred fifty classroom hours in
23 at least the following core areas of instruction:

- 24 (a) neuroscience;
25 (b) pharmacology;

- 1 (c) psychopharmacology;
2 (d) physiology;
3 (e) pathophysiology;
4 (f) appropriate and relevant physical
5 and laboratory assessment; and

6 (g) clinical pharmacotherapeutics;

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

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

17 (b) an additional supervised practicum
18 of at least four hundred hours treating no fewer than one
19 hundred patients with mental disorders, the practica to have
20 been supervised by any one or a combination of a psychiatrist
21 or other appropriately trained independently licensed
22 prescribing [~~physician~~] clinician and determined by the board
23 and the New Mexico medical board to be sufficient to
24 competently train the applicant in the treatment of a diverse
25 patient population. One-to-one supervision shall be provided

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1 either face-to-face, telephonically or by video conference;

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

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

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

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

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

24 (3) a supervising clinician shall notify the
25 supervising clinician's own licensing board of the name of each

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1 psychologist under the supervising clinician's supervision.

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

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

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

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

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

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

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

25 E. The board shall issue a prescription certificate

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1 if it finds that the applicant has met the requirements of
2 Subsection D of this section. A psychologist with a
3 prescription certificate may prescribe psychotropic medication
4 pursuant to the provisions of the Professional Psychologist Act
5 if the psychologist:

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

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

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

17 G. The board shall promulgate rules establishing
18 the grounds for denial, suspension or revocation of conditional
19 prescription certificates and prescription certificates
20 authorized to be issued pursuant to this section, including a
21 provision for suspension or revocation of a license to practice
22 psychology upon suspension or revocation of a certificate.
23 Actions of denial, suspension or revocation of a certificate
24 shall be in accordance with the Uniform Licensing Act."

25 SECTION 4. Section 61-9-17.2 NMSA 1978 (being Laws 2002,

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1 Chapter 100, Section 7, as amended) is amended to read:

2 "61-9-17.2. PRESCRIBING PRACTICES.--

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

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

18 C. The ongoing collaborative relationship shall be
19 maintained pursuant to guidelines developed by the board and
20 the New Mexico medical board, which shall optimize patient
21 care.

22 D. The guidelines shall ensure that the prescribing
23 psychologist or the psychologist with a conditional
24 prescription certificate and the health care practitioner
25 coordinate, and collaborate on, the care of the patient to

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1 provide optimal care. Nothing in this subsection shall require
2 a prescribing psychologist or psychologist with a conditional
3 prescription certificate to give prior notice to or obtain
4 prior approval from a health care practitioner to prescribe
5 psychotropic medication to a patient with whom the prescribing
6 psychologist has established a psychologist-patient
7 relationship; provided that the psychologist provides written
8 notice of the prescription to the health care practitioner
9 within twenty-four hours of its issuance to such patient.

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

15 E. A psychologist with a conditional prescription
16 certificate may prescribe and administer psychotropic
17 intramuscular injections and subcutaneous injections to include
18 antipsychotic medications and:

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

23 (2) injectable medication used in the
24 treatment of substance use disorders upon completion of board-
25 approved training.

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1 F. A committee composed of two prescribing
2 psychologist members of the board and two members of the New
3 Mexico medical board shall be established and, pursuant to the
4 guidelines, shall evaluate licensing complaints against
5 prescribing psychologists and report its findings and
6 recommendations to each board for appropriate action. The
7 committee shall develop education requirements for expanded
8 practice and present these requirements to each board for
9 approval.

10 [~~F.~~] G. A prescription written by a prescribing
11 psychologist or a psychologist with a conditional prescription
12 certificate shall:

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

19 [~~G.~~] H. A prescribing psychologist or a
20 psychologist with a conditional prescription certificate shall
21 not delegate prescriptive authority to any other person.
22 Records of all prescriptions shall be maintained in patient
23 records.

24 [~~H.~~] I. When authorized to prescribe controlled
25 substances, a prescribing psychologist or a psychologist with a

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1 conditional prescription certificate shall file with the board
2 in a timely manner all individual federal drug enforcement
3 administration registrations and numbers. The board and the
4 New Mexico medical board shall maintain current records on
5 every psychologist, including federal registrations and
6 numbers.

7 ~~[F.]~~ J. The board shall provide to the board of
8 pharmacy and the New Mexico medical board an annual list of
9 prescribing psychologists and psychologists with conditional
10 prescription certificates that contains the information agreed
11 upon ~~[between]~~ among the board, the New Mexico medical board
12 and the board of pharmacy. The board shall promptly notify the
13 board of pharmacy of psychologists who are added to or deleted
14 from the list.

15 ~~[J.]~~ K. For the purpose of this section:

16 (1) "collaborative relationship" means a
17 cooperative working relationship between a prescribing
18 psychologist or a psychologist with a conditional prescription
19 certificate and a health care practitioner in the provision of
20 patient care, including diagnosis and cooperation in the
21 management and delivery of physical and mental health care; and

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

25 SECTION 5. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2024.

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