

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 373 Certification for Prescriptive Authority  
**SPONSOR(S):** Health Quality Subcommittee, Pigman  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 304

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	9 Y, 3 N, As CS	Gilani	McElroy
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

The nation has a shortage of mental health care professionals which is only expected to worsen with time. When assessing unmet need, Florida has the second highest psychiatrist shortage in the nation, with a shortage of approximately 1,000 psychiatrists, which is projected to increase by 48 percent by 2030.

In Florida, psychiatrists and psychologists both treat mental health conditions using psychotherapy and evidence-based interventions, and have overlapping education and training. However, while a psychiatrist may prescribe medication to treat mental health conditions, a psychologist may not. Currently, if psychologists determine that medication is necessary for effective treatment of their patients, they must coordinate with a psychiatrist or other prescribing practitioner who will prescribe the medication for their patients, which can cause delays in treatment and increase cost to the patient.

HB 373 creates a certification for prescriptive authority that would allow licensed psychologists meeting certain criteria to prescribe medication in their course of treatment. The bill provides eligibility criteria, requirements for initial and renewal applications, and conditions under which psychologists may use their certificate of prescriptive authority. The bill imposes various duties on the Board of Psychology and creates an interim panel which will sunset once it submits rule recommendations to the Board.

The bill has a significant negative fiscal impact on the Department of Health and an insignificant fiscal impact on the Agency for Health Care Administration.

The bill provides an effective date of October 1, 2019.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### Mental Health Professionals

Psychiatrists and psychologists both treat mental health conditions and have overlapping education and training, but psychologists generally may not prescribe medication, thereby limiting the range of treatment they may offer their patients.

A psychiatrist is a physician who specializes in mental health, including substance use disorders.<sup>1</sup> Psychiatrists assess and treat mental illness through a combination of psychotherapy, medications, and psychosocial interventions.<sup>2</sup> To become a psychiatrist, one must complete a four-year psychiatry residency program after medical school with the option for additional specialized training in subspecialties.<sup>3</sup> The residency program typically involves one year in a hospital setting followed by three years of studying diagnosis and treatment of mental health, including psychotherapy and the use of psychotropic medication<sup>4</sup> and other treatments.

Psychologists also treat patients with mental and emotional health problems through combinations of psychotherapy and other evidence-based interventions. If psychologists determine medication would be helpful for treatment of a patient, they must work with a prescribing physician to provide it. Psychologists must complete a doctoral level degree, which typically involves four to six years of full-time study after completing an undergraduate degree, and includes a one-year full-time supervised internship.<sup>5</sup> Coursework includes the study of individual differences and the biological, cognitive, and social bases of behavior, as well as specific training in psychological assessment and therapy. Most states also require an additional year of supervised practice for licensure.

##### Mental Health Professional Shortage

One in five adults in the United States, an estimated 46.6 million people, suffer from one or more mental illnesses but 60 percent of them do not receive mental health services.<sup>6</sup> The nation, including Florida, has a shortage of health care providers which is only expected to worsen with time.<sup>7</sup> This projected shortage is even higher for mental health professionals, including psychiatrists and psychologists; it is estimated that 96 percent of counties in the United States have some unmet need for mental health prescribers.<sup>8</sup>

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<sup>1</sup> AMERICAN PSYCHIATRIC ASSOCIATION, *What is Psychiatry?*, <https://www.psychiatry.org/patients-families/what-is-psychiatry> (last visited Mar. 1, 2019).

<sup>2</sup> *Id.*

<sup>3</sup> E.g., child and adolescent psychiatry, geriatric psychiatry, forensic (legal) psychiatry, addiction psychiatry, pain medicine.

<sup>4</sup> Psychotropic medications are those which are used to treat mental health conditions such as schizophrenia, bipolar disorder, ADHD, or depression, and can include antipsychotics, antidepressants, and anti-anxiety medication. To prescribe any psychotropic drug that is a controlled substance, the prescribing practitioner must have a license with the federal Drug Enforcement Agency.

<sup>5</sup> AMERICAN PSYCHOLOGICAL ASSOCIATION, *What Do Practicing Psychologists Do?*, <https://www.apa.org/helpcenter/about-psychologists> (last visited Mar. 1, 2019).

<sup>6</sup> U.S. SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, *Key Substance Use and Mental Health Indicators in the United States: Results from the 2017 National Survey on Drug Use and Health*, Sept. 2018, available at:

<https://www.samhsa.gov/data/sites/default/files/cbhsq-reports/NSDUHFFR2017/NSDUHFFR2017.htm#mi> (last visited Mar. 1, 2019).

<sup>7</sup> U.S. HEALTH RESOURCES AND SERVICES ADMINISTRATION, *Designated Health Professional Shortage Area Statistics, Fourth Quarter of Fiscal Year 2018 Designated HPSA Quarterly Summary* (Sept. 30, 2018), available at:

[https://ersrs.hrsa.gov/ReportServer?/HGDW\\_Reports/BCD\\_HPSA/BCD\\_HPSA\\_SCR50\\_Qtr\\_Smry\\_HTML&rc:Toolbar=false](https://ersrs.hrsa.gov/ReportServer?/HGDW_Reports/BCD_HPSA/BCD_HPSA_SCR50_Qtr_Smry_HTML&rc:Toolbar=false) (last visited Mar. 1, 2019).

<sup>8</sup> *Id.*

Currently, there are approximately 2,100 psychiatrists and 5,612 psychologists in Florida.<sup>9</sup> When assessing unmet need, Florida has the second highest psychiatrist shortage in the nation, with a shortage of approximately 1,000 psychiatrists.<sup>10</sup> With low growth in the psychiatrist workforce and approximately 46 percent of psychiatrists being over 65 years of age, this shortage is projected to increase by 48 percent by 2030.<sup>11</sup>

### Psychology Regulation in Florida

The Psychological Services Act regulates the practice of psychology.<sup>12</sup> The Board of Psychology, within the Department of Health (DOH), regulates the practice of psychology and adopts rules to implement the provisions of the Act and set standards of practice within the state.<sup>13</sup>

To obtain a license to practice psychology, one must:<sup>14</sup>

- Have completed a doctoral degree in psychology from an educational institution and for a program which at the time the applicant was enrolled and graduated was accredited;<sup>15</sup>
- Have completed at least 2 years or 4,000 hours of experience in the field of psychology in association with or under the supervision of a licensed psychologist;
- Pass a national exam and an exam on Florida laws and rules; and
- Submit an application and pay a nonrefundable fee.

The practice of psychology includes observation, evaluation, and modification of human behavior by using scientific and applied psychological principles, methods, and procedures to improve mental and psychological health.<sup>16</sup> However, a psychologist may not prescribe medication. Currently, if psychologists determine that medication is necessary for effective treatment of their patients, they must coordinate with a physician or other prescribing practitioner who will prescribe the medication for their patients. Generally, the prescribing practitioner must first observe the patient before prescribing medication, which can cause delays in treatment and increase cost to the patient.

### Prescriptive Authority for Psychologists

Five states and some federal programs grant psychologists prescriptive authority to fill the gap created by the psychiatrist shortage. In these jurisdictions, psychologists must obtain advanced training after licensure which can include completion of a specialized training program or a master's degree in psychopharmacology.<sup>17</sup>

#### *Federal Systems with Prescriptive Authority for Psychologists*

In 1991, the U.S. Department of Defense created the Psychopharmacology Demonstration Project to determine the feasibility of training military clinical psychologists to prescribe psychotropic drugs safely

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<sup>9</sup> U.S. HEALTH RESOURCES AND SERVICES ADMINISTRATION, BUREAU OF HEALTH WORKFORCE, *State-Level Projections of Supply and Demand For Behavioral Health Occupations: 2016-2030*, Sept. 2018, available at:

<https://bhw.hrsa.gov/sites/default/files/bhw/nchwa/projections/state-level-estimates-report-2018.pdf> (last visited Mar. 1, 2019); FLORIDA DEPARTMENT OF HEALTH, *License Verification*,

<https://apps.mqa.doh.state.fl.us/MQASearchServices/HealthCareProviders/IndexPaged?page=1> (last visited Mar. 1, 2019).

<sup>10</sup> Id.

<sup>11</sup> Id. See also U.S. SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, *Report to Congress on the Nation's Substance Abuse and Mental Health Workforce Issues*, Jan. 24, 2013, available at: [https://www.cibhs.org/sites/main/files/file-attachments/samhsa\\_bhwork\\_0.pdf](https://www.cibhs.org/sites/main/files/file-attachments/samhsa_bhwork_0.pdf) (last visited Mar. 1, 2019).

<sup>12</sup> Ch. 490, F.S.

<sup>13</sup> S. 490.004, F.S.

<sup>14</sup> S. 490.005, F.S.

<sup>15</sup> For individuals who received their education prior to July 1, 1999, a psychology program that was comparable to an approved program may also satisfy this educational requirement, s. 409.03(3)(a), F.S.

<sup>16</sup> S. 490.003(4), F.S.

<sup>17</sup> Psychopharmacology is the study of the use of medications in treating mental disorders.

and effectively.<sup>18</sup> Participants had to complete a two-year medical school didactic program followed by a nine-month practicum in an inpatient psychiatric setting. The program lasted until 1997 and produced 10 prescribing psychologists who were then assigned at military posts across the nation. This was the first formal effort to train psychologists to prescribe psychotropic medication. An evaluation of the graduates in their respective posts found that they filled critical needs and provided quality care with no adverse incidents.<sup>19</sup>

Additionally, the U.S. Public Health Service Commissioned Corps is a team of public health professionals under the federal Department of Health and Human Services that serve in various federal agencies to deliver health care to underserved and vulnerable populations, provide mental health and drug abuse services, and respond to natural or man-made disasters, among other things.<sup>20</sup> Serving clinical psychologists may obtain prescriptive authority and an estimated 30 psychologists are serving in such capacity across various federal agencies.<sup>21</sup>

### *States with Prescriptive Authority for Psychologists*

Currently, Idaho, Illinois, Iowa, Louisiana, and New Mexico grant prescriptive authority to licensed psychologists. Requirements vary among states, but all require a period of training after licensure and passage of an exam. Some require collaboration with the patient's primary care or require a psychologist to practice under the supervision of a physician for a certain period before a certificate may be granted.

Comparison of State Requirements for Psychologist Prescriptive Authority				
State	Additional Training	Certification Exam	PCP Collaboration	Conditions
Idaho <sup>22</sup>	Postdoctoral master's degree in clinical psychopharmacology	Yes	No	2 years prescribing under physician supervision
Illinois <sup>23</sup>	Postdoctoral master's degree in clinical psychopharmacology	Yes	No	Collaborative agreement with a physician
Iowa <sup>24</sup>	Postdoctoral master's degree in clinical psychopharmacology	Yes	No	<ul style="list-style-type: none"> <li>• 2 years practicing under physician supervision</li> <li>• Collaborative agreement with a physician</li> </ul>
Louisiana <sup>25</sup>	Postdoctoral master's degree in clinical psychopharmacology	Yes	Yes	None
New Mexico <sup>26</sup>	<ul style="list-style-type: none"> <li>• 450 hours of didactic instructional training</li> <li>• 400 hours of practicum experience with at least 100 patients</li> </ul>	Yes	Yes	2 years prescribing under physician supervision

<sup>18</sup> American College of Neuropsychopharmacology, *DoD Prescribing Psychologists: External Analysis, Monitoring, and Evaluation of the Program and its Participants, Final Report* (May 1998), available at: <http://documents.theblackvault.com/documents/dod/readingroom/2/966.pdf> (last visited Mar. 1, 2019).

<sup>19</sup> *Id.*

<sup>20</sup> U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, SURGEON GENERAL, *U.S. Public Health Service Commissioned Corps*, <https://www.surgeongeneral.gov/corps/index.html> (last visited Mar. 1, 2019).

<sup>21</sup> Tori DeAngelis, *Prescribing Psychologists Working in the Federal System*, AMERICAN PSYCHOLOGICAL ASSOCIATION, Practice Update, Nov. 9, 2017, available at: <https://www.apaservices.org/practice/update/2017/11-09/psychologists-federal-system> (last visited Mar. 1, 2019).

<sup>22</sup> Idaho Code Ann. §§ 54-2316 through 54-2318.

<sup>23</sup> 225 ILL. COMP. STAT. 15.

<sup>24</sup> IOWA CODE §154B.

<sup>25</sup> LA. REV. STAT. ANN. § § 1360.51-1360.72.

<sup>26</sup> N.M. STAT. ANN. §§ 60-9-1 through 60-9-19; N.M. Code R. §§ 16.22.1 through 16.22.30.

## Psychopharmacology Exam for Psychologists

The Association of State and Provincial Psychology Boards (ASPPB), which is responsible for developing the national psychology exam, developed a Psychopharmacology Exam for Psychologists for states to certify a psychologist's competency in prescriptive authority.<sup>27</sup>

To qualify to sit for the exam, one must:<sup>28</sup>

- Hold an active license for independent practice as a psychologist at the doctoral level with demonstrated training and experience as a health services provider;
- Submit a self-attestation that the psychologist's licensure is in good standing with no current or pending disciplinary actions;
- Present an official transcript demonstrating successful completion of all coursework of a post-doctoral psychopharmacology training program from a regionally accredited institution in the U.S., or a provincially or territorially chartered institution in Canada. The psychopharmacology program must be designated by the American Psychology Association or demonstrate coursework that meets the criteria outlined for such designation; and
- Submit a self-attestation verifying that the applicant has been a health service provider for a period of at least two years.

### **Effect of the Bill**

HB 373 creates a certification for prescriptive authority that would allow licensed psychologists meeting certain criteria to prescribe medication in their course of treatment. The bill provides eligibility criteria, requirements for initial and renewal applications, and conditions under which psychologists may use their certificate of prescriptive authority. The bill imposes various duties on the Board of Psychology and creates an interim panel which will sunset once it submits rule recommendations to the Board.

### Prescriptive Authority

The bill allows certified psychologists to prescribe, administer, discontinue, or distribute without charge drugs or controlled substances which are recognized or customarily used in the diagnosis, treatment, or management of a person with psychiatric, mental, cognitive, nervous, emotional, developmental, or behavioral disorder. Currently, if psychologists determine that medication is necessary for effective treatment of their patients, they must coordinate with a physician to prescribe the medication, which can be difficult or cause delays in treatment. This would allow psychologists to provide a complete continuum of mental health treatment to their patients on their own in a timely manner.

This prescriptive authority also includes the ability to order necessary lab tests, diagnostic exams, procedures necessary to obtain lab tests or diagnostic exams, or other directly related procedures within the scope of practice of psychology.

### Certificate Eligibility Criteria

The bill requires the Board to certify eligible psychologists and establish procedures to review education and training requirements for the certification. To obtain a certificate for prescriptive authority, a psychologist must:

- Have a valid and current license to practice psychology;
- Have a doctoral degree in psychology;

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<sup>27</sup> ASSOCIATION OF STATE AND PROVINCIAL PSYCHOLOGY BOARDS, *Psychopharmacology Examination for Psychologists, Candidate Handbook*, available at: [https://cdn.ymaws.com/www.asppb.net/resource/resmgr/pep/PEP\\_Candidate\\_Handbook.pdf](https://cdn.ymaws.com/www.asppb.net/resource/resmgr/pep/PEP_Candidate_Handbook.pdf) (last visited Mar. 1, 2019).

<sup>28</sup> ASSOCIATION OF STATE AND PROVINCIAL PSYCHOLOGY BOARDS, *Psychopharmacology Examination for Psychologists*, <https://www.asppb.net/page/PEPEXam> (last visited Mar. 1, 2019).

- Pass a board-approved examination developed by a nationally recognized body to demonstrate competency in prescriptive authority;<sup>29</sup>
- Have completed an organized sequence of study in a program that offers intensive didactic education covering certain specific topics<sup>30</sup> and consistent with the American Psychological Association's policies on educating psychologists in preparation for prescriptive authority;
- Have relevant training and practice under a licensed psychologist sufficient to demonstrate competency in the psychopharmacological treatment of a diverse patient population consistent with the American Psychological Association's policies on educating psychologists in preparation for prescriptive authority.

The bill requires the Board to determine the number of hours of didactic instruction needed to ensure the knowledge and skills require to prescribe drugs in a safe and effective manner. Educational and training completed as part of a doctoral program in psychology or postdoctoral training or fellowship in psychology may be used to meet the education and training requirements of the certificate.

A psychologist who has completed the U.S. Department of Defense Psychopharmacology Demonstration Project or has comparable prescriptive authority under another health care practitioner license in Florida is exempt from the training requirements under the bill.

The bill requires the Board to adopt rules to establish a method to renew the certificate of prescriptive authority, which must occur every two years in conjunction with the general licensure renewal. In order to renew a certificate of prescriptive authority under the bill, the psychologist must complete 20 hours of continuing education related to prescriptive authority every two years.

### Prescribing Psychologist Duties

The bill requires a prescribing psychologist to use the certificate in accordance with the Board's adopted rules. A prescribing psychologist may not prescribe without a current and valid certificate of prescriptive authority.

A prescribing psychologist must:

- Maintain a record of all prescribed drugs for each patient;
- Comply with the Board's rules related to the certificate of prescriptive authority;
- Consult and collaborate with a patient's primary care provider and concur with such physician before prescribing a drug, altering a drug treatment, or discontinuing a drug; and
- Issue prescriptions in a manner consistent with Board rules and comply with all applicable state and federal laws.

Additionally, the bill limits a prescribing psychologist's prescriptive authority. Specifically, a prescribing psychologist may not prescribe drugs to a patient without a primary care provider or delegate prescriptive authority to another person.

Prescribing psychologists who receive authorization to prescribe controlled substances must file their Drug Enforcement Agency registration number with the Board within 10 days of receiving the authorization. The Board must keep a current record of any prescribing psychologists authorized to prescribe controlled substances.

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<sup>29</sup> Under the bill, the Psychopharmacology Examination for Psychologists offered by the Association of State and Provincial Psychology Boards is an example of an exam developed by a nationally recognized body to demonstrate competency in prescriptive authority.

<sup>30</sup> Under the bill, this program must include coursework specific to basic sciences, neuroscience, physical examination, interpretation of laboratory tests, pathological basis of disease, clinical medicine, clinical neurotherapeutics, systems of care, pharmacology, clinical pharmacology, psychopharmacology, psychopharmacology research, and professional, ethical, and legal issues.

## List of Prescribing Psychologists

Under the bill, the Board of Psychology must submit an initial list of prescribing psychologists to the Board of Pharmacy. The list must contain the name, certificate number, and effective date of the prescriptive authority certification for each prescribing psychologist. The Board of Psychology must promptly notify the Board of Pharmacy of any changes to the list, including changes related to certification, revocation, suspension, modification, denial, or reinstatement of a psychologist's prescriptive authority.

The bill requires the Board of Psychology to adopt rules to deny, modify, suspend, or revoke prescriptive authority certification. In instances where the Board determines that a prescribing psychologist has a deficiency in training or practice that could jeopardize health, safety, or welfare of the public, the Board may require remediation of such deficiency.

## Interim Panel

Additionally, the bill requires the Board to establish a panel by October 1, 2019, to make recommendations for proposed rules governing prescriptive authority for psychologists. The bill requires the panel to consist of the following five members:

- A psychiatrist and board-certified pediatrician, selected by the Board of Medicine.
- A pharmacist who holds a doctoral degree in pharmacy, selected by the Board of Pharmacy.
- Two psychologists who currently serve on the Board of Psychology or hold postdoctoral master's degrees in clinical psychopharmacology, selected by the Board of Psychology.

The bill requires the panel to submit its recommendations for proposed rules by May 1, 2020, and repeals the related subsection on the same date.

The bill provides an effective date of October 1, 2019.

## B. SECTION DIRECTORY:

**Section 1:** Creates s. 490.017, F.S., relating to certification for prescriptive authority.

**Section 2:** Provides an effective date of October 1, 2019.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

The bill will have a significant negative fiscal impact on DOH. DOH is requesting one recurring FTE at \$50,670 to provide staffing needed to establish the certification program and process initial and renewal applications.<sup>31</sup> DOH will also have to modify existing technology systems and update applications and related rules to support the new certificate of prescriptive authority under the bill, but states that it may absorb these costs within existing resources.

The bill will have an insignificant fiscal impact on the Agency for Health Care Administration, which it can absorb within existing resources; The Agency may experience increased enrollment in the Medicaid program to the extent that psychologists with prescriptive authority want to prescribe to

<sup>31</sup> Florida Department of Health, *Agency Bill Analysis for 2019 HB 373*, Jan. 21, 2019, p. 4-5 (on file with Health Quality Subcommittee staff).

Medicaid patients, and will have to update its Medicaid billing system to allow reimbursement claims for drugs prescribed by a psychologist with prescriptive authority.<sup>32</sup>

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill will have a positive impact on psychologists who obtain the certificate of prescriptive authority under the bill. Certified psychologists will be able to provide a broader range of services and treatment to their patients.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The Board has sufficient rulemaking authority to implement the bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 5, 2019, the Health Quality Subcommittee adopted an amendment that:

- Allows the two psychologists serving on the interim panel to be current members of the Board of Psychology;
- Changes the due date of the interim panel's recommendations to May 1, 2020, and sunsets the panel on the same date; and
- Changes the effective date of the bill to October 1, 2019.

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute as passed by the Health Quality Subcommittee.

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<sup>32</sup> Florida Agency for Health Care Administration, *Agency Bill Analysis for 2019 HB 373*, p. 1 (on file with Health Quality Subcommittee staff).