

House Study Bill 149 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON MILLER)

A BILL FOR

1 An Act relating to prescription authority for certain
2 psychologists and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.3, subsection 35, Code 2013, is
2 amended to read as follows:

3 35. "Pharmacy" means a drug store in which drugs and
4 medicines are exposed for sale and sold at retail, or in which
5 prescriptions of licensed physicians and surgeons, dentists,
6 prescribing psychologists, or veterinarians are compounded and
7 sold by a registered pharmacist.

8 Sec. 2. Section 124.101, subsection 26, paragraph a, Code
9 2013, is amended to read as follows:

10 a. A physician, dentist, podiatric physician, prescribing
11 psychologist, veterinarian, scientific investigator or
12 other person licensed, registered, or otherwise permitted to
13 distribute, dispense, conduct research with respect to, or to
14 administer a controlled substance in the course of professional
15 practice or research in this state.

16 Sec. 3. Section 147.107, subsections 1 and 2, Code 2013, are
17 amended to read as follows:

18 1. A person, other than a pharmacist, physician,
19 dentist, podiatric physician, prescribing psychologist, or
20 veterinarian who dispenses as an incident to the practice of
21 the practitioner's profession, shall not dispense prescription
22 drugs or controlled substances.

23 2. a. A pharmacist, physician, dentist, ~~or~~ podiatric
24 physician, or prescribing psychologist who dispenses
25 prescription drugs, including but not limited to controlled
26 substances, for human use, may delegate nonjudgmental
27 dispensing functions to staff assistants only when verification
28 of the accuracy and completeness of the dispensing is
29 determined by the pharmacist or practitioner in the
30 pharmacist's or practitioner's physical presence. However, the
31 physical presence requirement does not apply when a pharmacist
32 or practitioner is utilizing an automated dispensing system or
33 when a pharmacist is utilizing a tech-check-tech program, as
34 defined in section 155A.3. When using an automated dispensing
35 system the pharmacist or practitioner shall utilize an

1 internal quality control assurance plan that ensures accuracy
2 for dispensing. When using a tech-check-tech program the
3 pharmacist shall utilize an internal quality control assurance
4 plan, in accordance with rules adopted by the board of
5 pharmacy, that ensures accuracy for dispensing. Verification
6 of automated dispensing and tech-check-tech accuracy and
7 completeness remains the responsibility of the pharmacist or
8 practitioner and shall be determined in accordance with rules
9 adopted by the board of pharmacy, the board of medicine, the
10 dental board, ~~and the board of podiatry,~~ and the board of
11 psychology for their respective licensees.

12 *b.* A dentist, physician, ~~or~~ podiatric physician, or
13 prescribing psychologist who dispenses prescription drugs,
14 other than drug samples, pursuant to this subsection, shall
15 report the fact that they dispense prescription drugs with the
16 practitioner's respective board at least biennially.

17 *c.* A physician, dentist, ~~or~~ podiatric physician, or
18 prescribing psychologist who dispenses prescription drugs,
19 other than drug samples, pursuant to this subsection, shall
20 offer to provide the patient with a written prescription that
21 may be dispensed from a pharmacy of the patient's choice or
22 offer to transmit the prescription orally, electronically, or
23 by facsimile in accordance with section 155A.27 to a pharmacy
24 of the patient's choice.

25 **Sec. 4. NEW SECTION. 148.13A Authority of board as to**
26 **supervising physicians under chapter 154B.**

27 The board of medicine shall establish by rule specific
28 procedures for consulting with and considering the advice of
29 the board of psychology in determining whether to initiate
30 a disciplinary proceeding under chapter 17A against a
31 licensed physician in a matter involving the supervision of a
32 psychologist prescribing medication pursuant to a conditional
33 prescription certificate under chapter 154B.

34 **Sec. 5. Section 154B.1, Code 2013, is amended to read as**
35 **follows:**

1 **154B.1 Definition Definitions.**

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Board" means the board of psychology created under
5 chapter 147.

6 2. "Collaborative relationship" means a cooperative
7 working relationship between a prescribing psychologist or a
8 psychologist with a conditional prescription certificate and a
9 licensed physician in the provision of patient care, including
10 diagnosis and cooperation in the management and delivery of
11 physical and mental health care.

12 3. "Conditional prescription certificate" means a document
13 issued by the board to a licensed psychologist that permits
14 the holder to prescribe psychotropic medication under the
15 supervision of a licensed physician pursuant to this chapter.

16 4. "Practice of psychology" means the application of
17 established principles of learning, motivation, perception,
18 thinking, and emotional relations to problems of behavior
19 adjustment, group relations, and behavior modification,
20 by persons trained in psychology for compensation or other
21 personal gain. The application of principles includes, but
22 is not limited to: Counseling and the use of psychological
23 remedial measures with persons, in groups or individually,
24 with adjustment or emotional problems in the areas of work,
25 family, school, and personal relationships; measuring and
26 testing personality, intelligence, aptitudes, public opinion,
27 attitudes, and skills; and the teaching of such subject matter,
28 and the conducting of research on the problems relating to
29 human behavior.

30 5. "Prescribing psychologist" means a licensed psychologist
31 who holds a valid prescription certificate.

32 6. "Prescription certificate" means a document issued by the
33 board to a licensed psychologist that permits the holder to
34 prescribe psychotropic medication pursuant to this chapter.

35 7. "Psychotropic medication" means a controlled substance

1 or dangerous drug that may not be dispensed or administered
2 without a prescription and whose primary indication for use
3 has been approved by the federal food and drug administration
4 for the treatment of mental disorders and is listed as a
5 psychotherapeutic agent in drug facts and comparisons or in the
6 American hospital formulary service.

7 Sec. 6. NEW SECTION. 154B.9 **Drugs — medicines.**

8 1. Except as provided in subsections 2 and 3, a psychologist
9 shall not administer or prescribe drugs or medicine.

10 2. A licensed psychologist holding a conditional
11 prescription certificate may prescribe psychotropic medication
12 under the supervision of a licensed physician pursuant to this
13 chapter.

14 3. A prescribing psychologist may prescribe psychotropic
15 medication pursuant to this chapter.

16 Sec. 7. NEW SECTION. 154B.10 **Conditional prescription**
17 **certificate.**

18 1. An applicant for a conditional prescription certificate
19 shall be granted a certificate by the board if the applicant
20 satisfies all of the following requirements:

21 a. Holds a current license to practice psychology in this
22 state.

23 b. Completed pharmacological training from an institution
24 approved by the board or from a provider of continuing
25 education approved by the board.

26 c. Passed a national certification examination approved by
27 the board that tested the applicant's knowledge of pharmacology
28 in the diagnosis, care, and treatment of mental disorders.

29 d. Within five years immediately preceding the date of
30 application, successfully completed an organized program of
31 education consisting of intensive didactic instruction of no
32 fewer than four hundred fifty classroom hours in at least the
33 following core areas of instruction:

34 (1) Neuroscience.

35 (2) Pharmacology.

1 (3) Psychopharmacology.

2 (4) Physiology.

3 (5) Appropriate and relevant physical and laboratory
4 assessment.

5 e. Within five years immediately preceding the date of
6 application, has been certified by the applicant's supervising
7 psychiatrist or physician as having successfully completed
8 a supervised and relevant clinical experience of no less
9 than an eighty-hour practicum in clinical assessment and
10 pathophysiology and an additional supervised practicum of at
11 least four hundred hours treating no fewer than one hundred
12 patients with mental disorders. The practica shall have been
13 supervised by a psychiatrist or other appropriately trained
14 physician. The board shall determine whether the practica is
15 sufficient to competently train the applicant in the treatment
16 of a diverse patient population.

17 f. Possesses malpractice insurance in place that will cover
18 the applicant during the period the conditional prescription
19 certificate is in effect.

20 g. Meets all other requirements, as determined by rules
21 adopted by the board, for obtaining a conditional prescription
22 certificate.

23 2. A conditional prescription certificate is valid for two
24 years, at the end of which the holder may apply again pursuant
25 to the provisions of subsection 1.

26 3. A psychologist with a conditional prescription
27 certificate may prescribe psychotropic medication under the
28 supervision of a licensed physician subject to all of the
29 following conditions:

30 a. The psychologist shall continue to hold a current license
31 to practice psychology in this state and continue to maintain
32 malpractice insurance.

33 b. The psychologist shall inform the board of the name of
34 the physician under whose supervision the psychologist will
35 prescribe psychotropic medication and promptly inform the board

1 of any change of the supervising physician.

2 *c.* A physician supervising a psychologist prescribing
3 psychotropic medication pursuant to a conditional prescription
4 certificate shall be subject to disciplinary action pursuant to
5 section 148.13A for the acts and omissions of the psychologist
6 while under the physician's supervision. This provision
7 does not relieve the psychologist from liability for the
8 psychologist's acts and omissions.

9 **Sec. 8. NEW SECTION. 154B.11 Prescription certificate.**

10 1. An applicant for a prescription certificate shall be
11 granted a certificate by the board if the applicant satisfies
12 all of the following requirements:

13 *a.* Possesses a conditional prescription certificate and has
14 successfully completed one year of prescribing psychotropic
15 medication as certified by the supervising licensed physician.

16 *b.* Holds a current license to practice psychology in this
17 state.

18 *c.* Possesses malpractice insurance that will cover the
19 applicant as a prescribing psychologist.

20 *d.* Meets all other requirements, as determined by rules
21 adopted by the board, for obtaining a prescription certificate.

22 2. A psychologist with a prescription certificate may
23 prescribe psychotropic medication pursuant to the provisions of
24 this chapter subject to the following conditions:

25 *a.* The psychologist continues to hold a current license to
26 practice psychology in this state and maintains malpractice
27 insurance.

28 *b.* The psychologist annually satisfies the continuing
29 education requirements for prescribing psychologists, as
30 determined by the board, which shall be no fewer than twenty
31 hours each year.

32 **Sec. 9. NEW SECTION. 154B.12 Prescribing practices.**

33 1. A prescribing psychologist or a psychologist with
34 a conditional prescription certificate may administer and
35 prescribe psychotropic medication within the scope of the

1 psychologist's profession, including the ordering and review of
2 laboratory tests in conjunction with the prescription, for the
3 treatment of mental disorders.

4 2. When prescribing psychotropic medication for a
5 patient, the prescribing psychologist or the psychologist
6 with a conditional prescription certificate shall maintain
7 an ongoing collaborative relationship with the licensed
8 physician who oversees the patient's general medical care to
9 ensure that necessary medical examinations are conducted,
10 the psychotropic medication is appropriate for the patient's
11 medical condition, and significant changes in the patient's
12 medical or psychological condition are discussed.

13 3. A prescription written by a prescribing psychologist or a
14 psychologist with a conditional prescription certificate shall
15 meet all of the following requirements:

16 a. Comply with applicable state and federal laws.

17 b. Be identified as issued by the psychologist as
18 "psychologist certified to prescribe".

19 c. Include the psychologist's board-assigned identification
20 number.

21 4. A prescribing psychologist or a psychologist with
22 a conditional prescription certificate shall not delegate
23 prescriptive authority to any other person. Records of all
24 prescriptions shall be maintained in patient records.

25 5. When authorized to prescribe controlled substances, a
26 prescribing psychologist or a psychologist with a conditional
27 prescription certificate shall file with the board in a
28 timely manner all individual federal drug enforcement agency
29 registration and numbers. The board shall maintain current
30 records on every psychologist, including federal registration
31 and numbers.

32 **Sec. 10. NEW SECTION. 154B.13 Board duties regarding**
33 **prescription certificates and conditional prescription**
34 **certificates.**

35 1. The board shall adopt rules providing for the

1 procedures to obtain a conditional prescription certificate,
2 a prescription certificate, and renewals of a prescription
3 certificate. The board may set reasonable application and
4 renewal fees.

5 2. The board shall adopt rules establishing the grounds for
6 denial, suspension, or revocation of conditional prescription
7 certificates and prescription certificates, including a
8 provision for suspension or revocation of a license to practice
9 psychology upon suspension or revocation of a certificate.

10 3. The board shall provide to the board of pharmacy an
11 annual list of prescribing psychologists and psychologists
12 with conditional prescription certificates that contains
13 the information agreed upon between the board and the board
14 of pharmacy. The board shall promptly notify the board of
15 pharmacy of psychologists who are added to or removed from the
16 list.

17 4. The board shall adopt other rules as necessary to
18 administer this chapter.

19 Sec. 11. Section 155A.3, subsection 35, Code 2013, is
20 amended to read as follows:

21 35. "*Practitioner*" means a physician, dentist, podiatric
22 physician, prescribing psychologist, veterinarian, or other
23 person licensed or registered to distribute or dispense a
24 prescription drug or device in the course of professional
25 practice in this state or a person licensed by another state
26 in a health field in which, under Iowa law, licensees in this
27 state may legally prescribe drugs.

28 Sec. 12. Section 155A.23, subsection 1, paragraph c, Code
29 2013, is amended to read as follows:

30 c. For the purpose of obtaining a prescription drug or
31 device, falsely assuming the title of or claiming to be
32 a manufacturer, wholesaler, pharmacist, pharmacy owner,
33 physician, dentist, podiatric physician, prescribing
34 psychologist, veterinarian, or other authorized person.

35 Sec. 13. Section 155A.24, subsection 14, Code 2013, is

1 amended to read as follows:

2 14. This section does not prevent a licensed practitioner of
3 medicine, dentistry, podiatry, nursing, psychology, veterinary
4 medicine, optometry, or pharmacy from acts necessary in the
5 ethical and legal performance of the practitioner's profession.

6 EXPLANATION

7 This bill grants prescription authority to certain licensed
8 psychologists under Code chapter 154B.

9 The bill adds definitions of "board", "collaborative
10 relationship", "conditional prescription certificate",
11 "prescribing psychologist", "prescription certificate", and
12 "psychotropic medication" to the Code chapter.

13 The bill allows a licensed psychologist holding a
14 conditional prescription certificate and a prescribing
15 psychologist, defined as a licensed psychologist who holds
16 a valid prescription certificate, to prescribe psychotropic
17 medication. However, the psychologist holding a conditional
18 prescription certificate may only prescribe psychotropic
19 medication under the supervision of a licensed physician.

20 The bill sets the requirements for a psychologist to obtain
21 a conditional prescription certificate or a prescription
22 certificate. A conditional prescription certificate is
23 valid for two years and a psychologist may reapply for the
24 certificate. To receive a prescription certificate, a
25 psychologist must complete one year of prescribing psychotropic
26 medication as supervised by a licensed physician. The licensed
27 physician may be subject to disciplinary action for the
28 acts and omissions of the psychologist under the physician's
29 supervision. A psychologist must maintain licensure as
30 a psychologist and malpractice insurance to retain the
31 prescription certificate or the conditional prescription
32 certificate.

33 The bill provides that a prescribing psychologist or
34 psychologist with a conditional prescription certificate may
35 administer and prescribe psychotropic medication within the

1 scope of the person's profession. The prescribing psychologist
2 or psychologist with a conditional prescription certificate
3 must maintain a relationship with the patient's licensed
4 physician when prescribing psychotropic medication for the
5 patient.

6 The bill states that a prescription written by a
7 prescribing psychologist or a psychologist with a conditional
8 prescription certificate must comply with state and federal
9 law, be identified as issued by a "psychologist certified to
10 prescribe", and include the psychologist's board-assigned
11 identification number. A prescribing psychologist or
12 psychologist with a conditional prescription certificate
13 may not delegate the prescriptive authority to any other
14 person, and records of the prescriptions must be maintained
15 in the patient's records. The prescribing psychologist or
16 psychologist with a conditional prescription certificate must
17 also file federal drug enforcement agency registrations and
18 numbers with the board.

19 The bill instructs the board of psychology to adopt rules
20 providing for the procedures for obtaining a conditional
21 prescription certificate, a prescription certificate, and
22 renewal of the prescription certificate. The board may
23 also set a reasonable application and renewal fee. The
24 board must adopt rules regarding the denial, suspension,
25 or revocation of conditional prescription certificates and
26 prescription certificates. The board must provide the board of
27 pharmacy with an annual list of prescribing psychologists and
28 psychologists with conditional prescription certificates and
29 promptly notify the board of pharmacy of psychologists who are
30 added to or removed from the list.

31 A prescribing psychologist may be subject to criminal and
32 civil penalties and licensing sanctions under Code chapters
33 124, 147, 154B, and 155A.

34 The bill makes conforming changes in Code chapters 123, 124,
35 147, and 155A.