

PSYCHOLOGIST LICENSING AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Merlynn T. Newbold

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Psychologist Licensing Act to permit a psychologist who has specialized training and who is in a collaborative care model with a primary care practitioner to prescribe psychotropic medications.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a licensed psychologist to obtain certification by the division to obtain limited prescribing authority;
- ▶ establishes the requirements for:
 - a prescription certificate; and
 - a conditional prescription certificate;
- ▶ provides continuing education requirements;
- ▶ requires a criminal background check; and
- ▶ makes it unlawful conduct to prescribe without a prescription certificate.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

28a **Ĥ→ 58-1-301.5, as last amended by Laws of Utah 2010, Chapter 372 ←Ĥ**

29 **58-61-306**, as enacted by Laws of Utah 1994, Chapter 32

30 **58-61-501**, as last amended by Laws of Utah 2001, Chapter 281

31 ENACTS:

32 **58-61-701**, Utah Code Annotated 1953

33 **58-61-702**, Utah Code Annotated 1953

34 **58-61-703**, Utah Code Annotated 1953

35 **58-61-704**, Utah Code Annotated 1953

36 **58-61-705**, Utah Code Annotated 1953

37 **58-61-706**, Utah Code Annotated 1953

38 **58-61-707**, Utah Code Annotated 1953

39

40 *Be it enacted by the Legislature of the state of Utah:*

40a **Ĥ→ Section 1. Section 58-1-301.5 is amended to read:**

40b **58-1-301.5. Division access to Bureau of Criminal Identification records.**

40c **(1) The division shall have direct access to criminal background information maintained by**
 40d **the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal**
 40e **Identification, for background screening of licensure applicants as required in:**

40f **(a) Section 58-17b-307 of Title 58, Chapter 17b, Pharmacy Practice Act;**

40g **(b) Section 58-31b-302 of Title 58, Chapter 31b, Nurse Practice Act;**

40h **(c) Section 58-47b-302 of Title 58, Chapter 47b, Massage Therapy Practice Act;**

40i **(d) Section 58-55-302 of Title 58, Chapter 55, Utah Construction Trades Licensing Act, as it**
 40j **applies to alarm companies and alarm company agents;**

40k **(e) Section 58-63-302 of Title 58, Chapter 63, Security Personnel Licensing Act; [and]**

40l **(f) Section 58-64-302 of Title 58, Chapter 64, Deception Detection Examiners Licensing**

40m **Act [-] ; and**

40n **(g) Section 58-61-702, of Title 58, Chapter 61, Part 7, Prescriptive Authority for Licensed**

40o **Psychologists.**

40p **(2) The division access under Subsection (1) shall be:**

40q **(a) in accordance with Section 53-10-108; and**

40r **(b) to all convictions, pleas of nolo contendere, pleas of guilty or nolo contendere held in**
 40s **abeyance, all dismissed charges, and charges without a known disposition. ←Ĥ**

41 **Section Ĥ→ [±] 2 ←Ĥ . Section 58-61-306 is amended to read:**

42 **58-61-306. Continuing education.**

43 ~~[By rule made under Section 58-1-203, the division may]~~

44 The division shall adopt administrative rules in accordance with Title 63G, Chapter 3,
45 Utah Administrative Rulemaking Act, and Section 58-1-203 to:

46 (1) establish a continuing education requirement as a condition for renewal of a license
47 under this chapter upon finding continuing education is necessary to reasonably protect the
48 public health, safety, or welfare[-]; and

49 (2) establish continuing education requirements for renewal of a psychologist
50 prescription certificate that shall include at a minimum 48 hours of continuing education for
51 each renewal cycle, with 12 of the 48 hours related to pharmacology.

52 Section ~~58-61-501~~ ~~→~~ **[2]** **3** ~~←~~ ~~58-61-501~~ . Section **58-61-501** is amended to read:

53 **58-61-501. Unlawful conduct.**

54 As used in this chapter, "unlawful conduct" includes:

55 (1) practice of psychology unless licensed as a psychologist or certified psychology
56 resident under this chapter or exempted from licensure under this title;

57 (2) practice of mental health therapy by a licensed psychologist who has not acceptably
58 documented to the division his completion of the supervised training in psychotherapy required

59 under Subsection 58-61-304(1)(f); [~~or~~]

60 (3) representing oneself as or using the title of psychologist, or certified psychology
61 resident unless currently licensed under this chapter[~~;~~]; or

62 (4) practice inconsistent with the provisions of Part 7, Prescriptive Authority for
63 Licensed Psychologists.

64 Section ~~H~~→ [3] 4 ←~~H~~ . Section 58-61-701 is enacted to read:

65 **Part 7. Prescriptive Authority for Licensed Psychologists**

66 **58-61-701. Definitions.**

67 As used in this part:

68 (1) "Collaboration" means a process that involves a prescribing psychologist and a
69 primary care provider working together to provide comprehensive care to a patient.

70 (2) "Conditional prescription certificate" means a document issued by the division to a
71 psychologist that allows the psychologist to prescribe psychotropic medications under the
72 supervision of:

73 (a) a prescribing psychologist; or

74 (b) a practitioner as defined in Section 58-17b-103.

75 (3) "Prescribe" is as defined in Section 58-17b-102.

76 (4) "Prescribing psychologist" means a psychologist who:

77 (a) is licensed under this chapter; and

78 (b) holds a current prescription certificate under this part.

79 (5) "Prescriptive authority" means a psychologist who is licensed under this chapter
80 and authorized under this part to prescribe and administer psychotropic drugs in the course of
81 professional practice.

82 (6) "Psychotropic medication" means a controlled substance or drug that:

83 (a) may not be dispensed or administered without a prescription; and

84 (b) is customarily used for the treatment of psychiatric, mental, cognitive, nervous,

85 emotional, personality, or behavioral disorders as defined by the current Diagnostic and

86 Statistical Manual of Mental Disorders published by the American Psychiatric Association, or

87 the current edition of the International Statistical Classification of Diseases and Related Health

88 Problems published by the World Health Organization.

89 Section ~~H~~→ [4] 5 ←~~H~~ . Section 58-61-702 is enacted to read:

90 **58-61-702. Prescription certificate required.**

91 A prescription certificate issued in accordance with the provisions of this part is
 92 required for a psychologist to prescribe a psychotropic medication in collaboration with a
 93 primary care provider.

94 Section ~~H~~→ [5] 6 ←~~H~~ . Section **58-61-703** is enacted to read:

95 **58-61-703. Qualifications for conditional prescription certificate -- Expiration of**
 96 **certificate.**

97 (1) A psychologist may apply to the division for a conditional prescription certificate if
 98 the psychologist:

99 (a) submits an application to the division in a form prescribed by the division;

100 (b) pays a fee as determined by the division in accordance with Section 63J-1-504;

101 (c) produces satisfactory evidence of good moral character as it relates to the

102 psychologist's ability to practice as a prescribing psychologist;

103 (d) completes a criminal background check ~~H~~→ **under the provisions of**

103a **Section 58-1-301.5** ←~~H~~ and is free from criminal convictions ~~H~~→ [as

104 **required by Subsections (3) and (4)]** ←~~H~~ ;

105 (e) (i) has at least a master's degree in clinical psychopharmacology from an institution
 106 accredited by a regional accreditation organization recognized by the United States Department
 107 of Education; or

108 (ii) has successfully completed:

109 (A) the United States Department of Defense Psychopharmacology Demonstration
 110 Project; or

111 (B) a program similar to the program described in Subsection (1)(e)(ii)(A) that is
 112 operated by any branch of the Armed Forces of the United States; and

113 (f) has successfully passed an examination that:

114 (i) is developed by a nationally recognized organization;

115 (ii) is approved by the board; and

116 (iii) tests the applicant's knowledge of pharmacology in the diagnosis, care, and
 117 treatment of psychiatric, mental, cognitive, nervous, emotional, personality, or behavioral
 118 disorders.

119 (2) (a) A psychologist may hold a conditional prescription certificate for two years.

120 (b) When the initial two-year conditional prescription certificate expires, a psychologist

121 may re-apply for a conditional prescription certificate for one additional two-year term if the
 122 applicant demonstrates to the board that the applicant:

123 (i) made significant progress towards completing the requirements for the prescription
 124 certificate during the initial two-year conditional prescription certificate; and

125 (ii) has a compelling reason for not completing the requirements for the prescription
 126 certificate within the initial two-year term.

127 ~~Ĥ→ [(3) To determine if an applicant meets the qualifications of Subsection (1)(c) or (d), the~~
 128 ~~division shall provide an appropriate number of copies of fingerprint cards to the Department~~
 129 ~~of Public Safety with the division's request to:~~

130 ~~—— (a) conduct a search of records of the Department of Public Safety for criminal history~~
 131 ~~information relating to each applicant for certification under this part; and~~

132 ~~—— (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant~~
 133 ~~requiring a check of records of the FBI for criminal history information under this section.~~

134 ~~—— (4) The Department of Public Safety shall send to the division:~~

135 ~~—— (a) a written record of criminal history, or certification of no criminal history record, as~~
 136 ~~contained in the records of the Department of Public Safety in a timely manner after receipt of~~
 137 ~~a fingerprint card from the division and a request for review of Department of Public Safety~~
 138 ~~records; and~~

139 ~~—— (b) the results of the FBI review concerning an applicant in a timely manner after~~
 140 ~~receipt of information from the FBI.]~~

141 ~~[(5)] (3) ←Ĥ (a) The division shall charge each applicant a fee, in accordance with Section~~
 142 ~~63J-1-504, equal to the cost of performing the records reviews under this section.~~

143 ~~(b) The division shall pay the Department of Public Safety the costs of all records~~
 144 ~~reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews~~
 145 ~~under this part.~~

146 ~~Ĥ→ [(6)] (4) ←Ĥ Information obtained by the division from the reviews of criminal~~
 146a ~~history records of~~
 147 ~~the Department of Public Safety and the FBI shall be used or disseminated by the division only~~
 148 ~~for the purpose of determining if an applicant for licensure under this part is qualified for~~
 149 ~~certification.~~

150 Section ~~Ĥ→ [6] 7 ←Ĥ~~ . Section 58-61-704 is enacted to read:

151 **58-61-704. Qualifications for prescription certificate.**

152 A licensed psychologist with a current conditional prescription certificate may apply to
 153 the division for a prescription certificate. An applicant shall:

154 (1) submit an application in the form prescribed by the division;

155 (2) demonstrate completion of, in no less than six months and no more than 12 months,
 156 a supervised clinical experience of at least 200 hours, including differential diagnosis and
 157 applied pharmacological management of patients congruent with the speciality role sought;

158 (3) receive an independent peer review that is approved by the board and adopted by
 159 the division by administrative rule;

160 (4) hold adequate malpractice insurance as determined by the board and adopted by the
 161 division by administrative rule; and

162 (5) meet other requirements as determined by the board and adopted by the division by
 163 administrative rule.

164 Section ~~H~~→ [7] **8** ←~~H~~ . Section **58-61-705** is enacted to read:

165 **58-61-705. Conditional prescription certificate -- Supervising prescriber.**

166 (1) A psychologist who holds a conditional prescription certificate may prescribe
 167 psychotropic medication for the treatment of a psychiatric, mental, cognitive, nervous,
 168 emotional, personality, or behavioral disorder:

169 (a) under the supervision of a prescribing practitioner who is knowledgeable in the
 170 administration of psychotropic drugs; and

171 (b) in accordance with Section 58-61-706.

172 (2) During the period of supervision under Subsection (1), the person supervising the
 173 psychologist is responsible for the acts and omissions related to the prescribing of psychotropic
 174 medications by the psychologist.

175 Section ~~H~~→ [8] **9** ←~~H~~ . Section **58-61-706** is enacted to read:

176 **58-61-706. Psychologist prescription certificate -- Limitations -- Laboratory**
 177 **testing.**

178 (1) A psychologist who has a prescription certificate or a conditional prescription
 179 certificate may prescribe a psychotropic medication to a patient for treatment or management of
 180 a psychiatric, mental, cognitive, nervous, emotional, personality, or behavioral disorder if the
 181 disorder to be treated is:

182 (a) listed in the most recent edition of the:

183 (i) Diagnostic and Statistical Manual of Mental Disorders published by the American
184 Psychiatric Association; or

185 (ii) International Statistical Classification of Diseases and Related Health Problems
186 published by the World Health Organization; and

187 (b) the prescribing psychologist is working in collaboration with the patient's primary
188 care provider to ensure that:

189 (i) necessary medical examinations are conducted;

190 (ii) the prescribing psychologist and primary care provider communicate, in a timely
191 manner:

192 (A) the patient's current medical status;

193 (B) any known contraindications to psychotropic medications; and

194 (C) any significant changes in the patient's medical or psychological condition; and

195 (iii) the prescribing psychologist informs the primary care provider, in a timely manner,
196 of psychotropic medications prescribed by the prescribing psychologist.

197 (2) A prescribing psychologist may order and interpret a laboratory test if the
198 laboratory test is necessary for adequate pretreatment health screening and treatment
199 maintenance, including monitoring potential side effects associated with psychotropic
200 medications prescribed by the prescribing psychologist.

201 (3) (a) The prescribing psychologist shall document the collaboration required by
202 Subsection (1)(b) in the clinical record of the patient for whom the psychologist prescribed a
203 psychotropic medication.

204 (b) A primary care provider who is in a collaborative relationship with a prescribing
205 psychologist shall document the collaboration required by Subsection (1)(b) in the primary care
206 provider's clinical record for the patient.

207 (4) The division shall adopt administrative rules in accordance with Title 63G, Chapter
208 3, Utah Administrative Rulemaking Act, to implement this section.

209 Section ~~58-61-707~~ **10** is enacted to read:

210 **58-61-707. Term of license -- Expiration -- Renewal.**

211 The division shall issue each prescription certificate under this chapter in accordance
212 with a two-year renewal cycle established by the division by administrative rule. A license
213 automatically expires on the expiration date shown on the license unless renewed by the

214 prescribing psychologist in accordance with Section 58-1-308.

Legislative Review Note
as of 2-10-11 1:44 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 289

SHORT TITLE: **Psychologist Licensing Amendments**

SPONSOR: **Newbold, M.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this legislation will result in revenue of \$1,200 in FY 2012 and \$2,000 in odd-numbered years thereafter. Ongoing Commerce Department expenses associated with the new licensure are estimated at \$1,000 with one-time expenses of \$200 in FY 2012. Commerce Service Fund revenue and expenditures affect the annual transfer to the General Fund. As such, this bill will result in the transfers to the General Fund of \$1,000 in FY 2013.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue:			
General Fund	\$0	\$0	\$1,000
Commerce Service Fund	\$0	\$1,000	\$0
Commerce Service, One-time	\$0	\$200	\$1,000
Total Revenue	\$0	\$1,200	\$2,000
Expenditure:			
Commerce Service Fund	\$0	\$1,000	\$1,000
Commerce Service, One-time	\$0	\$200	\$0
Total Expenditure	\$0	\$1,200	\$1,000
Net Impact, All Funds (Rev.-Exp.)	\$0	\$0	\$1,000
Net Impact, General/Education Funds	\$0	\$0	\$1,000

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this legislation would require an estimated 12 licensees to pay the \$100 application fee in FY 2012. An additional six applicants are expected after the first year, together with the renewals. Renewal fees of \$78 will be paid during odd-numbered years.