

**REPORT OF RECOMMENDATIONS AND FINDINGS
ON THE PSYCHOLOGY PRESCRIBING PROPOSAL FOR CHANGE IN
SCOPE OF PRACTICE**

By the Nebraska
State Board of Health

To the Director of the Division of Public Health of the Department of Health
and Human Services, and the Members of the Health and Human
Services Committee of the Legislature

September 18, 2017

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Part One: Preliminary Information

Introduction

The Credentialing Review Program is a review process advisory to the Legislature which is designed to assess the need for state regulation of health professionals. The credentialing review statute requires that review bodies assess the need for credentialing proposals by examining whether such proposals are in the public interest.

The law directs those health occupations and professions seeking credentialing or a change in scope of practice to submit an application for review to the Department of Health and Human Services, Division of Public Health. The Director of this Division will then appoint an appropriate technical review committee to review the application and make recommendations regarding whether or not the application in question should be approved. These recommendations are made in accordance with statutory criteria contained in Section 71-6221 of the Nebraska Revised Statutes. These criteria focus the attention of committee members on the public health, safety, and welfare.

The recommendations of technical review committees take the form of written reports that are submitted to the State Board of Health and the Director of the Division along with any other materials requested by these review bodies. These two review bodies formulate their own independent written reports on the same credentialing proposals. All reports that are generated by the program are submitted to the Legislature to assist state senators in their review of proposed legislation pertinent to the credentialing of health care professions.

The Members of the Nebraska State Board of Health

Joel Bessmer, MD

Kevin Borchert, PharmD, RP

Brian Brightman, OD

Shane Fleming, BSN, MSN, RN

Michael Hansen, (Hospital Administrator)

Russell Hopp, DO

Diane Jackson, APRN

Kevin Low, DDS

Anthony Moravec, DVM

Debra Parsow (public member)

Teresa Konda, PE

Wayne Stuberg, PhD, PT (Chair)

Travis Teeter, MD

Joshua Vest, DPM

Douglas Vander Broek, DC

Jeromy Warner, PsyD, LP

Meetings Held

The Meeting of the Credentialing Review Committee of the Board, September 12, 2017

The Meeting of the Full Board of Health, September 18, 2017

Part Two: Summary of Recommendations on the Psychology Prescribing Proposal

Summary of the Technical Committee Recommendations

The Psychology Prescribing Technical Review Committee recommended approval of the proposal.

Summary of the Recommendations of the Nebraska State Board of Health

The members of the Nebraska State Board of Health recommended against approval of the applicants' proposal.

Part Three: Summary of the Proposal

The applicant's proposal calls for the creation of a prescription certificate for licensed psychologists with specialized postdoctoral training in clinical psychopharmacology, which would enable them to prescribe medications when treating mental disorders. Licensed psychologists with postdoctoral clinical psychopharmacology training have been certified to prescribe psychotropic medications in two states for over ten years and in specific agencies within the federal system for over twenty years. More recently, the states of Illinois and Iowa have passed legislation to certify psychologists with specialized training to prescribe mental health medications. The applicant's proposal to create a prescription certificate is provided in Appendix B (pages 48-54) of this application and summarized below.

The prescription certificate would enable the licensed psychologist to prescribe psychotropic (mental health) medications and order laboratory studies as necessary when treating mental disorders. The prescribing psychologist would communicate with the patient's primary health care practitioner who oversees the patient's general medical care. This is to promote better integrated patient care in treating medical and mental health issues.

This communication between the patient's prescribing psychologist and primary health care practitioner would ensure that necessary medical examinations are conducted, the psychotropic medication is not contra-indicated for the patient's medical condition, and significant changes in the patient's medical or psychological condition are addressed. This communication would ensure an unusually high level of safety in patient care. The proposal also defines limits of practice for the prescribing psychologists pertaining to the formulary of medications falling under the prescription certificate, and treatment of patients with certain co-morbid conditions.

The new credential would be administered by the department and board of psychologists and subcommittee consisting of a psychiatrist (or other qualified physician), university affiliated pharmacist with a doctoral degree and expertise in clinical psychopharmacology, and psychologists who completed postdoctoral degrees in clinical psychopharmacology. The Board of Psychology already participates in the regulation of multiple credentials beyond the license to practice psychology. The prescription certificate would add to the list of credentials for the board and department to regulate.

The licensed psychologist applying for a provisional prescription certificate would have completed a postdoctoral master's degree in clinical psychopharmacology, physician supervised health assessment practicum, passed a national examination, and completed an additional supervised practicum with a minimum of one hundred patients under the supervision of a psychiatrist or other qualified physician, and/or a prescribing psychologist with an unrestricted prescription certificate. The licensed psychologist with the provisional prescription certificate would then need to successfully complete a minimum two years of practice under the supervision of a physician before being considered for an unrestricted prescription certificate. A prescribing psychologist with an unrestricted prescription certificate would not require physician supervision. The prescribing psychologist with an unrestricted prescription certificate would continue to engage in communication with each

patient's primary health care practitioner to deliver a high level of coordinated care in the best interests of the patient.

The department and board of psychology would develop regulations regarding continuing competency requirements for the prescribing psychologists to renew prescription certificates. The prescribing psychologist would be required to present evidence to the department of completing forty hours of continuing competency programming relevant to safe and effective prescribing practices. The prescribing psychologist would also be required to maintain their license to practice psychology which requires completing a minimum twenty-four hours of continuing competency training for renewal, every two years, of the psychology license. In total the prescribing psychologists would present evidence to the department of sixty-four hours of continuing competency training hours to maintain the psychology license and prescription certificate.

More information on the proposal can be found under the Psychology Prescribing subject area on the credentialing review program link at <http://dhhs.ne.gov/licensure/Pages/credentialing-review.aspx> under "Applicants' Proposal".

Part Four: Discussion on the Issues by the Credentialing Review Committee of the Board

Comments by Chairperson Debra Parsow

Ms. Parsow stated that the TRC which reviewed the proposal was a very vocal group. She went on to state that the proposal they reviewed was a much improved version of the proposal previously submitted more than two years before by the same applicant group. Ms. Parsow commented that this second version of the proposal to enable psychologists to prescribe psycho-tropic medications is much clearer, more specific, and much better documented. She cautioned, however, that there are still some aspects of the proposal that need additional clarification including whether or not to include a formulary, whether or not there is a need for additional clinical preparation for those who seek to provide the services in question, and whether there is a need for additional clarification regarding how consultation with other medical professionals including physicians would occur and or when such consultation would occur.

Preliminary Questions by Committee Members

Dr. Jeromy Warner indicated that he wanted the applicants to clarify the implications of the proposal for continuing education. Dr. Kevin Borchert indicated that he wanted the applicants to clarify what is meant by the term “psycho-tropic,” as well as to clarify what medications would be included under this term.

Applicant Group Testimony

Ann Talbot, Ph.D., President of the Nebraska Psychological Association, came forward to present testimony on behalf of the applicant group. Commenting on criteria one and two Dr. Talbot stated that there can be no doubt that there is a serious access problem as regards mental health services in Nebraska, particularly in remote rural areas of our state. She went on to state that the benefits of psychologists prescribing medications has been clearly documented in states in which this privilege has been allowed, namely in states such as New Mexico and Louisiana, for example. Allowing psychologists to prescribe has increased access to care via a ‘one-stop-shop’ approach, and the fact that prescribing psychologists are Medicaid and Medicare approved. The proposal would allow for improved diagnosis via a team approach, and would provide for better overall approach to care by de-emphasizing the role played by medications in care and by discrediting the notion that medications are always the best answer for dealing with mental health problems.

Michael Merritt, Ph.D., was the next to come forward to present testimony on behalf of the applicant group. Dr. Merritt submitted a document for the panel’s review which described in detail the education and training that prescribing psychologists would receive. He commented that a close examination of this education and training would clarify that prescribing psychologists possess ample education and training to practice safely and effectively. Dr. Merritt went on to state that this education and training combines didactic and clinical components into a truly ‘hands-on’ approach to learning and includes clinical practicum examinations for diagnosis and assessment under supervision, at first, and then later independently, but under observation and assessment, for example. Dr. Merritt went on to state that post-professional measures have been clearly delineated in the proposal and that these measures include a ‘step-by-step’ assessment process under supervision. He went on to

respond to Dr. Warner's question about CE by stating that there would be additional CE preparation above and beyond what a traditional psychologist receives, and that this CE would be specifically focused on issues pertinent to prescribing. He stated that there would be a total of 64 CE hours required for prescribing psychologists every two years.

Dan Ullman, Ph.D., came forward to present his testimony on behalf of the applicant group. Dr. Ullman informed the Board committee members that the state of New Mexico recently revised its psychology prescribing legislation to place greater emphasis on what could be called "un-prescribing," which includes provisions disallowing self-prescribing, for example. Dr. Borchert asked Dr. Ullman how the proposal might help deal with the current 'opioid' crisis. Dr. Ullman replied that psychologists would be able to play a lead role in getting patients off of addictive sleep inducing medications, for example, and that this is a component of psychology's "un-prescribing" emphasis. Dr. Merritt commented that psychology's emphasis on a diversified team approach to mental health care would greatly facilitate the fight against dependency on addictive medications.

Opponent Group Testimony

Cynthia Palm, MD, President of the Nebraska Psychiatric Society, came forward to present testimony on behalf of those opposed to the proposal. This spokesperson began her testimony by stating that everyone knows that there is an access to care problem in mental health in Nebraska, but then she went on to say that this does not mean that allowing psychologists to prescribe is the answer to this problem, and that there are far better alternatives including making better use of advanced practice nurses, for example. This testifier went on to question information provided by the applicants which purports to show that allowing psychologists to prescribe has improved access to care in the states of New Mexico and Louisiana, for example, and added that the data provided does not demonstrate this assertion. This testifier went on to question applicant assertions about the supposed absence of harm from similar proposals in other states by stating that "the absence of evidence is not necessarily evidence of absence." She went on to state that there is a correlation between less education and training on the one hand and medical errors on the other, and that allowing psychologists to prescribe would increase the risk of medical errors. She went on to state that there is no comparison between the education and training of physicians on the one hand and the education and training of a psychologist on the other.

Dr. Palm went on to say that the proposal does not provide for true collaboration between a physician and a psychologist and that all it would really provide for in this context would be a form of notification which would put Nebraska patients in greater risk of harm. She went on to state that the proposal does not provide for an adequate regulatory process to oversee or administer psychology prescribing if it were to pass, and that the Board of Psychology lacks sufficient knowledge or experience with prescribing to be able to oversee it effectively.

Dr. Warner asked how many nurse practitioners would be available to provide this kind of care if we were to seek to address access concerns by utilizing their services. Dr. Talbot responded by stating that there are perhaps three or four psych nurses in the entirety of the Panhandle of western Nebraska.

Mr. Fleming asked the applicants how they would manage co-morbidity scenarios and the problems of vulnerable elderly patients. Dr. Merritt responded that psychologists do have training in age-related conditions and in working with special populations. Dr. Palm responded by stating that the amount of training that a psychologist receives in this area of care is minimal

compared to that of a physician. She added that nothing in the proposal clarifies exactly how, or to what extent, a physician would be allowed to become involved in the care of a psychology prescriber's patient under what the proposal refers to as "collaboration". It's unclear whether a "collaborating physician" would ever get to see the patient in question, or whether they would simply be expected to "sign-off" on whatever the psychologist decides to do.

Dr. Moravec asked the applicants how a conflict between a physician and a psychologist over how to manage a given patient's condition would be resolved. Dr. Merritt responded that the patient's family physician would have to resolve it, and that the proposal would be written so as to require that a patient have a family physician or if not the psychologist would be required to decline to provide prescriptive services to the patient. Dr. Moravec responded by paraphrasing from the proposal which he said states that nothing would occur until the two parties resolved their differences.

Dr. Moravec then asked the applicants how they would manage an adverse outcome such as renal failure, for example. Dr. Merritt replied that in such a circumstance the patient would need to be taken to emergent care. The psychologist would not attempt to treat such adverse reactions.

Dr. Warner asked the applicants to provide more information about how the proposal would be administered. Dr. Ullman responded by stating that if the proposal were to pass a special advisory committee would be formed to advise the Board of Psychology on prescriptive issues, and that this body would include both physicians and pharmacists.

Mr. Fleming asked the applicants how referral would work under the terms of the proposal. Dr. Merritt replied that it could take the form of self-referral or it could come from another health care provider, for example.

Committee Recommendations on the Proposal

The committee members took action on the six criteria pertinent to scope of practice reviews as follows:

Criterion one: The health, safety, and welfare of the public are inadequately addressed by the present scope of practice or limitations on the scope of practice.

Voting yes that the proposal satisfies this criterion was Borchert. Voting no were Warner, Fleming, and Moravec.

Criterion two: Enactment of the proposed change in scope of practice would benefit the health, safety, or welfare of the public.

Voting no were Borchert, Fleming, Warner, and Moravec. There were no yes votes.

Criterion three: The proposed change in scope of practice does not create a significant new danger to the health, safety, or welfare of the public.

Voting yes that the proposal satisfies this criterion were Warner, Borchert, and Parsow. Voting no were Fleming and Moravec.

Criterion four: The current education and training for the health profession adequately prepares practitioners to perform the new skill or service.

Voting no were Borchner, Fleming, Warner, and Moravec. There were no yes votes.

Criterion five: There are appropriate post-professional programs and competence assessment measures available to assure that the practitioner is competent to perform the new skill or service in a safe manner.

Voting no were Borchner, Fleming, Warner, and Moravec. There were no yes votes.

Criterion six: There are adequate measures to assess whether practitioners are competently performing the new skill or service and to take appropriate action if they are not performing competently.

Voting no were Borchner, Fleming, Warner, and Moravec. There were no yes votes.

The committee members then took action on the proposal as a whole as follows:

Voting yes that the proposal satisfies this criterion were Warner, Borchner, and Parsow. Voting no were Fleming and Moravec. By this vote the committee members acted to recommend in favor of the proposal.

After this vote the committee members discussed their actions. Dr. Borchner and Dr. Warner commented that they see a need for increased access to mental health services especially in rural areas of Nebraska. Dr. Warner added that if the proposal passes the collaboration component needs to be much more clearly defined. Dr. Borchner commented that if the proposal were to pass the educational component needs further development and clinical focus. Mr. Fleming commented that he has concerns about co-morbidity issues and the treatment of elderly patients by psychologists who lack adequate preparation to manage these kinds of cases. Dr. Moravec commented that some of the data used to support the proposal was not compelling. He added that he has little enthusiasm for a proposal that adds yet another profession to the list of professions who can prescribe dangerous drugs, and that it is time that we realize that powerful drugs are often the source of health problems rather than the solution to health problems. Ms. Parsow commented that there has to be a better way to help mental health patients than the current situation, and that something needs to be done to increase access to services in this area of care.

Part Five: Discussion on the Issues by the Full Board of Health

Proponent Testimony

During this session the Board members received testimony from both the applicants and the opponents of the proposal. Dr. Ann Talbot came forward to testify on behalf of the applicant group. Dr. Talbot commented that, generally, as regards providing services in remote rural areas, psychologists stay while psychiatrists come and go, and that it makes sense to enhance the scope of practice of those professionals who stay, specifically psychologists, if we want to improve access to care vis-à-vis mental health services. Dr. Talbot commented that there is little reason to doubt the safety of what is being proposed because psychologists are by nature very thorough and meticulous professionals who pursue what is best for their patients. She went on to state that psychologists are well prepared in dual diagnosis and therefore prepared to differentiate between physical, medical aspects of mental health conditions, on the one hand, and behavioral aspects on the other, adding that all psychologists are trained to perform such differential diagnoses, not just those with a medical psychology background.

Dr. Low asked Dr. Talbot if there is compelling evidence from other states that have passed some version of the proposal that psychology prescribing is safe and effective. Dr. Talbot responded in the affirmative, adding that in New Mexico there are now psychiatrists who regard psychology prescribing as essential to providing access to mental health services in that state. Dr. Low asked the applicants to provide some examples of medications that a prescribing psychologist would use. Dr. Michael Merritt, PhD, came forward to answer this question and responded by stating that anti-depressants are examples of such medications.

Dr. Stuberger asked the applicants what the evaluative criteria would be for determining if a psychologist is prepared to provide prescriptive services to patients. Dr. Merritt responded that there are APA designated accreditation standards that define such evaluative criteria. Dr. Hopp asked the applicants whether psychiatrists would be willing to work with psychologists if the proposal were to pass. Dr. Talbot that they would be, and that she has communicated many times with psychiatrists regarding medication issues and complications of her patients, for example, and that these communications were accepted by the other parties.

Dr. Teetor commented that information he has seen indicates that only about six percent of Nebraska's psychologists are located in rural Nebraska and that the rest of them practice in Lincoln and Omaha. Dr. Merritt responded by stating that there are twelve psychologists working in Scottsbluff and that they travel all over western Nebraska providing services much as nurse practitioners do, for example. Dr. Teetor replied that recent progress in the area of tele-health holds promise of enhancing access to the services of mental health professionals including psychiatrists, for example, and that this is the kind of development that will eventually address access to care needs, not expansions in psychology scope of practice. Dr. Talbot responded that tele-health per se is not enough, and that we also need to get more providers involved in prescribing to address these needs.

Dr. Teetor commented that the training and preparation of psychologists in the area of pediatrics is inadequate and that the amount of additional preparation provided for in the proposal would not be sufficient for the applicants to provide services to children safely and effectively.

Opponent Testimony

Dr. Beth Ann Brooks came forward to present opponent testimony. Dr. Brooks commented on her reasons for opposing the proposal which are as follows:

- The applicants failed to provide objective evidence to support the proposal
- Necessary education and training to support prescriptive authority was not clearly defined
- Education pertinent to special populations was lacking
- The requirement for 80 hours of additional clinical preparation is woefully inadequate
- There is no provision for an independent oversight and certifying body for prescribing psychologists
- Communication is what the proposal calls for vis-à-vis the proposed relationship between physicians and psychologists, but this does not equate to collaboration, and collaboration is what is needed
- There is no clarification regarding how a disagreement between a physician and a psychologist would be worked out
- Psychologists do not have hospital privileges
- Increasing the number of prescribers will not increase access to care
- Tele-health is more likely to increase access to care than any proposal for expanding the number of providers who prescribe

Debra Parsow then asked the members of the Credentialing Review Committee to clarify their actions during the Committee's special meeting held on September 12, 2017 for the benefit of the members of the full Board. Dr. Moravec commented that increasing the number of people prescribing drugs is not the answer to access to care concerns, especially when there are concerns about the education and training of those who would be given such privileges, for example. Dr. Borchert commented that he recognizes the need for greater access to care and sees the value of getting more professionals involved in prescribing. Dr. Borchert went on to comment that the proposal does need further improvement in the area of clinical preparation but that this is something that can be addressed over time, and that the collaborative dimension of the proposal would surely mitigate at least some of the proposals shortfalls in clinical preparation. Mr. Fleming expressed concern about "scope creep" if the proposal were to pass, and added that the applicants did not clearly establish any benefit to the public from passing the proposal. He added that there are serious co-morbidity issues and age-related shortcomings of the proposal as well. Dr. Warner commented that wait-times for services in mental health are very long especially in rural and Western Nebraska, and added that despite the shortfalls and lack of clarity and specificity of the proposal it does offer some hope for improving access to care problems in our state. Dr. Borchert commented that he recognizes that there could be some potential for new harm from the proposal but that this new harm would not likely be any worse than that already extant from nurse practitioners or physician assistants who prescribe, for example, and added that any prescriber, even a physician, can make a mistake.

Part Six: Recommendations of the Full Board of Health on the Proposal

Actions Taken by the Board Members:

The members of the full Board of Health took the following action on the recommendation of their Credentialing Review Committee to recommend approval of the proposal as follows:

Voting yes were Borchert, Brightman, Jackson, Parsow, and Low.

Voting no were Bessmer, Fleming, Hopp, Konda, Vest, Moravec, Stuberg, and Teetor.

Dr. Warner abstained from voting.

By this action the members of the full Board recommended against approval of the applicants' proposal.