

## **A Model Prescribing Act For Psychologist Seeking Prescriptive Authority**

### **The Patient Safety Evidence Based Prescribing Act.**

The following is a model legislation for prescriptive authority and is an evidence based model derived from the best available science related to the prescribing of psychotropic medications. Its aim is to demonstrate the differences between psychologists who utilize medications as a proficiency in providing medications related services and those prescribers in other disciplines. It is our believe that psychologists who seek prescriptive authority must demonstrate a significant difference in the ways we would provide these services because simply adding another class of prescribers to the existing list is unacceptable and not in the best interests of patients who require treatment for mental, emotional, and behavioral problems. This model is science based. The elements of the legislation are consistent with our training as psychologists and our training in the relevant medical and pharmacological issues. NIBHQ believes that patient safety is foremost and medications are not and should not be first line treatments for mental, emotional and behavioral disorders. It is clear that there will always be a place for psychiatric drugs to control psychiatric disorders. However, we advocate that this intervention must only be used when other less intrusive and safe methods have been exhausted first, and only when the medications show overwhelming support to be effective for the specific patient.

We look towards the research on neurogenesis and autoplaticity of the brain, learning theory and science, psychotherapy in its broad array of techniques, psychological rehabilitation, nutrition, exercise, pharmacology and psychopharmacology for the deveelopment of prescribing standards. The management of relational quality and social support systems indicate to us that the brain, and personality can and does change through experience. Therefore, to treat mental disorders and the behavioral aspects of many physical disorders with a medication only approach is inappropriate, not supported by science or reasonably optimistic. Such an approach departs from the reality that change can and does occur and that long-term health and optimal treatment can be achieved solely through chemistry.

We understand that one of the barriers to optimal treatment is the design of the current Primary Care and Medical/Surgical Hospital System which does not have requirements for staffing of adequate doctoral level mental health specialists and midlevel providers. Certainly, the type of complex skills required by at least one third of patients seen in these settings cannot be learned and mastered in simple workshops or a single class or set of seminars. Therefore, it is unrealistic to expect general medical staff to master or accumulate the years of knowledge, experience, supervision and training that is required to fulfill these roles. Neither will such general medical personnel have the time, interest, or inclination to re-specialize in a way that would allow them to deliver these services. Moreover, because of these deficits, medications are their primary and, most times, only treatment option.

Since there is not an extant adequate workforce of behaviorally trained medical specialists and whereas medical psychologists are more adequately trained to encompass both the behavioral and psychopharmacological approaches, and because medical psychologists and psychiatrists will be required to supervise and direct mid-level behavioral specialists and nurses, medical psychologists who are appropriately trained should be allowed to prescribe psychoactive medications.

Failure to amend licensure laws allowing psychologists to practice to the fullest extent of their training and experience and to prescribe medications based on the prescribing standards derived from peer reviewed research and the best available science denies the public quality healthcare while increasing the costs associated with treatment.

Historically, psychologists have made meaningful contributions to hospital and healthcare facility staffs with admitting and attending privileges in many states and settings. Laws preventing medical psychologists who have acquired a proficiency in prescribing psychotropic medications are archaic and counter productive to the needs of the public, healthcare facilities, and healthcare teams in the American healthcare system. Without meaningful modifications to statutory barriers, rules, and facility staffing requirements, sufficient adaptation and rapid movement to efficient multi-disciplinary and Integrated Care Models will not be possible.

**THE PEOPLE OF THE STATE OF \_\_\_\_\_ DO ENACT AS  
FOLLOWS:**

This Act shall be known, and may be cited as, **The Patient Safety Evidence Based Prescribing Act.**

**SEC. 1.** As used in this chapter, unless the context clearly requires otherwise and except as in this chapter expressly otherwise provided:

(a) "Licensed psychologist" means an individual to whom a license has been issued pursuant to the provisions of this chapter, which license is in force and has not been suspended or revoked.

(b) "Board" means a state Board of Psychology.

(c) A person represents himself or herself to be a psychologist when the person holds himself or herself out to the public by any title or description of services incorporating the words "psychology," "psychological," "psychologist," "psychology consultation," "psychology consultant," "psychometry," "psychometrics" or "psychometrist," "psychotherapy," "psychotherapist," "psychoanalysis," or "psychoanalyst," or when the person holds himself or herself out to be trained, experienced, or an expert in the field of psychology.

(d) "Prescriptive authority" means the authority to prescribe, discontinue, order, administer, and/or dispense without charge, drugs or controlled substances recognized for or customarily used in the inpatient or outpatient diagnosis, treatment, and the evaluation and management of individuals with psychiatric, mental, cognitive, nervous, emotional, addictive, developmental or behavioral disorders, excluding narcotics and order or utilize other procedures, consultations, devices and tests related thereto.

(e) "Health service provider" means a licensed psychologist who is duly trained and experienced in the delivery of preventive, assessment, diagnostic, and therapeutic intervention services relative to the psychological and physical health of consumers and who has done all of the following:

(1) Completed an internship and supervised experience in health care settings.

(2) Been licensed as a psychologist at the independent practice level.

(f) "Medical psychologist" means a health service provider who has received from the board, pursuant to this act, a valid certificate granting prescriptive authority, and the certificate has not been revoked or suspended. The title "medical psychologist" shall not be restricted only to those psychologists who have been certified by the board to prescribe psychotropic medications and may be used by other licensed psychologists who demonstrate training and experience in the specialty.

(g) "Drug" has the same meaning as provided in other sections of state law where the term "drug" is used.

(h) "Device" has the same meaning as provided in other sections of state law where the term "device" is used.

(i) "Prescription" has the same meaning provided and used in other sections of state law where the term "prescription" is used.

(j) "Narcotics" mean natural and synthetic opioid analgesics, and their derivatives used to relieve pain.

(k) "Evidence based" means studies that have been reviewed and reported by the Cochrane Collaborative and published in the Cochrane Review.

(l) "Primary care provider" means a licensed physician, nurse practitioner or any other healthcare provider licensed by a state to legally act as a primary care provider of physical health.

## **SEC. 2. The Practice of Psychology**

The practice of psychology shall not include any of the following:

- (a) Prescribing drugs or devices, except by medical psychologists who have received a certificate to prescribe medications.
- (b) Performing surgery.
- (c) Administering electroconvulsive therapy.

## **SEC. 3. Preparation For Prescriptive Authority And Certification**

(a) Each state board shall establish and administer a certification process to grant psychologists prescriptive authority. Each medical psychologist-in-training shall be registered with the Board during the supervised clinical training and shall prescribe under the supervision and license of a qualified prescriber.

(b) The board shall develop procedures for the administration of an appropriate, valid and recognized examination and approved by the Board. The board shall charge applicants reasonable fees for the issuance of, and renewal of, a certificate to cover the costs of administering the certification process and the examination. These fees shall be deposited in a Psychology Fund.

(c) Each applicant for certification as a "medical psychologist shall show by official transcript or other official evidence satisfactory to the board that he or she has successfully completed the following through an organized Sequence of Basic Training in Human Systems and psychopharmacological courses.

Coursework shall be consistent with the following:

1. Coursework in basic anatomy and physiology
2. Coursework in Biochemistry
3. Coursework in Basic Pharmacology
4. Coursework in Clinical Medicine
5. Coursework in Diseases of the Cardiac System
6. Coursework in Diseases of the Hepatic and Renal Systems
7. Coursework in Diseases of the Respiratory System
8. Coursework Interpreting Laboratory Studies and Physical Assessment
9. Coursework in Psychotropic Pharmacotherapy
10. Coursework Interpreting Pharmacological Research and Prescribing ethics.

At its discretion, the Board may certify a psychologist from a federal or other state jurisdiction that has authorized the psychologist to prescribe if the board determines that the psychologist has practiced with competence. Also, the board may, in its discretion, certify a psychologist to practice as a medical psychologist if the psychologist has lawfully prescribed in any branch of the military or under another professional license which authorizes prescribing and the training and experience under the other license is consistent with the training standards required for a medical psychologist. At the discretion of the board, approved programs may give credit for required didactic science courses taken in other educational institutions that would meet the educational requirements of the program.

2. A licensed psychologist who possesses an unrestricted board certification issued by the American Board of Medical Psychology shall be deemed to have met all of the requirements for a certificate authorizing prescriptive authority under this law.

3. A licensed psychologist who presents the board with either a post doctoral master of science degree in clinical psychopharmacology or a professional certificate in clinical psychopharmacology that was issued prior to the start date of this legislation shall be deemed to have met the educational requirements of this section.

4. Relevant supervised clinical experience to be determined by each state and consistent with obtaining skills and applied knowledge that relates to prescribing psychotropic medications. The following clinical competencies of the supervisory experience are recommended:

1. **PHYSICAL EXAM AND MENTAL STATUS**

Possess knowledge of a comprehensive physical examination and mental status evaluation.

2. **REVIEW OF SYSTEMS**

Possess knowledge and ability to systematically evaluate and document each of the major body systems

3. **MEDICAL HISTORY INTERVIEW AND DOCUMENTATION**

Ability to systematically conduct a patient and family medical history and to communicate the findings in written and verbal form

4. **ASSESSMENT: INDICATIONS AND INTERPRETATION**

Ability to order and interpret appropriate tests (e.g., psychometric, laboratory and radiological) to aid in the prescribing of a medication.

5. **DIFFERENTIAL DIAGNOSIS**

Use of appropriate processes, including established diagnostic criteria (e.g., ICD-9, to determine primary and alternate diagnoses

**6. INTEGRATED TREATMENT PLANNING**

Ability to utilize all available data to select the most appropriate treatment alternatives.

**7. CONSULTATION AND COLLABORATION**

Developing and understanding how a medical psychologist works with other professionals in an advisory or collaborative manner to effect treatment of a patient

**8. TREATMENT MANAGEMENT**

Application, monitoring and modification, as needed, of treatments

**9. REVIEW OF RELEVANT RESEARCH**

The ability to evaluate and utilize unbiased pharmacological and psychopharmacological research studies resulting in safer and better care for patients.

**SEC. 4. Renewal of Certification**

(a) Each state board shall set forth the requirements for renewal of a certificate of a medical psychologist for each license renewal period.

(b) Each applicant for renewal of a certificate for prescriptive authority shall present evidence of having completed approved mandatory continuing education in the areas of medical psychology, psychopharmacology, and related prescribing practice as set forth by the board. Twenty (20) CE units per certification period are recommended.

**SEC. 5. Complying With Federal and State Statutes**

(a) Each medical psychologist shall hold an unrestricted license to practice psychology and shall comply with all state and federal rules and regulations relating to the prescribing, dispensing, and recordkeeping for drugs or devices. If the board determines that it facilitates administration of this act to

identify a medical psychologist by another name that is consistent with other jurisdictions, it may do so.

(b) A written order of a "medical psychologist" shall include his or her identification number assigned by the board indicating certification to prescribe.

(c) A "medical psychologist" shall not delegate the prescribing of medication to any other person except for a supervised trainee in a recognized clinical training program that is preparing a medical psychologist to prescribe medications.

(d) Records of all prescriptions shall be maintained in client records.

#### **SEC. 6. Board of Pharmacy Notification**

(a) Each state board shall routinely transmit to the Board of Pharmacy a list of medical psychologists containing, at a minimum, all of the following information:

- (1) The name of the psychologist.
- (2) The unique identification number indicating certification to prescribe.
- (3) The effective date of prescriptive authority.

(b) The board shall promptly forward to the Board of Pharmacy within 30 days of acquiring the names and identification numbers of psychologists added to or deleted from the annual list of psychologists certified to prescribe.

(c) The board shall notify the Board of Pharmacy within 30 days upon termination, suspension, or reinstatement of a psychologist's authority to prescribe.

#### **SEC. 7. Suspension and Revocation of Prescriptive Authority**

The board may refuse to issue any registration, certification or license, or may issue a registration or license with terms and conditions, or may suspend or revoke the registration or license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

(a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

(b) Use of any controlled substance of the state's Health and Safety Code, or dangerous drug, or any alcoholic beverage to an extent or in a manner dangerous to himself or herself, any other person, or the public, or to an extent that this use impairs his or her ability to perform the work of a psychologist with safety to the public.

(c) Fraudulently or neglectfully misrepresenting the type or status of license or registration actually held.

(d) Impersonating another person holding a psychology license or allowing another person to use his or her license or registration.

(e) Using fraud or deception in applying for a license or registration or in passing the examination provided for in this chapter.

(f) Paying, or offering to pay, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of patients.

(g) Willful, unauthorized communication of information received in professional confidence.

(h) Violating any rule of professional conduct promulgated by the board and set forth in regulations duly adopted under this chapter.

- (i) Being grossly negligent in the practice of his or her profession.
- (j) Violating any of the provisions of this chapter or regulations duly adopted thereunder.
- (k) The aiding or abetting of any person to engage in the unlawful practice of psychology.
- (l) The suspension, revocation or imposition of probationary conditions by another state or country of a license or certificate to practice psychology or as a psychological assistant issued by that state or country to a person also holding a license or registration issued under this chapter if the act for which the disciplinary action was taken constitutes a violation of this section.
- (m) The commission of any dishonest, corrupt, or fraudulent act.
- (n) Prescribing outside the parameters required in this statute.
- (o) Any act of sexual abuse, or sexual relations with a patient, or sexual misconduct which is substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.
- (p) Functioning outside of his or her particular field or fields of competence as established by his or her education, training, and experience.
- (q) Willful failure to submit, on behalf of an applicant for licensure, verification of supervised experience to the board.
- (r) Repeated acts of negligence.
- (s) Violating any law or statute relating to prescribing or dispensing drugs.

## **SEC. 8. Prescribing Method and Requirements**

(a) "Prescription" means an oral, written, or electronic transmission order that is both of the following:

1) Given individually for the person or persons for whom ordered that includes all of the following:

(A) The name or names and address of the patient or patients.

(B) The name and quantity of the drug or device prescribed and the directions for use.

(C) The date of issue.

(D) Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed.

(E) A legible, clear notice of the condition for which the drug is being prescribed, if requested by the patient or patients.

(F) If in writing, signed by the prescriber issuing the order.

(1) "Electronic transmission prescription" includes both image and data prescriptions. "Electronic image transmission prescription" means any prescription order for which a facsimile of the order is received by a pharmacy from a licensed prescriber. "Electronic data transmission prescription" means any prescription order, other than an electronic image transmission prescription, that is electronically transmitted from a licensed prescriber to a pharmacy.

(2) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

## **SEC. 9. PRESCRIBING STANDARDS**

Medical psychologists who are authorized to prescribe medications shall adhere to the following prescribing standards:

1. Medical psychologists shall consider prescribing a medication only after a patient has been provided with information about the potential side effects and potential harm associated with the specific medication recommended for that patient. Such information shall also include information stating that the patient has the right to refuse any treatment recommended in the treatment plan.

2. A medical psychologist shall not prescribe a medication as a first line treatment for mild to moderate mood disorders, sleep disorders, anxiety disorders and attentional deficit disorders. Medications may be considered only after a suitable course of psychotherapy or behavioral intervention has been completed and where little or no progress has occurred. If a medication subsequently is prescribed, the patient shall also be provided with psychotherapy, counseling or other suitable behavioral intervention while remaining on the medication.

3. Should a medication become part of a patient's treatment regimen, the medical psychologist shall not:

(a) Prescribe any medication that has not been evaluated and assessed to be effective as reported in at least one study by the Cochrane Review.

(b) A medical psychologist shall not prescribe any medication that is considered "off label". Off label is defined as any medication that has not specifically been approved by the Federal Drug Administration for the specific condition being experienced by the patient.

(c) A medical psychologist shall not prescribe any active medication as a placebo.

(d) A medical psychologist shall not prescribe more than two drugs for a patient's presenting disorder or symptoms.

(e) A medical psychologist shall not prescribe a medication for the lifetime of the patient. Medications regimens must be routinely evaluated and should be terminated if the patient's condition and symptoms are not significantly improved within 2 months of treatment.

(f) A medical psychologist shall not prescribe a medication above the upper limit of a dosage for which the medication has been approved.

(g) A medical psychologist shall not prescribe a medication that has not outperformed a placebo or other medication in its class. When assessing the performance of a medication, a medical psychologist shall utilize the findings, if any, reported and published by the Cochrane Collaboration and if any other two articles in peer reviewed professional journals have demonstrated a placebo is performing as well or outperforming the medication.

(h) Prescribing medications is an acquired proficiency and is not a practice specialty. A medical psychologist's practice shall not comprise medication only services or comprise more than 50% of an out-patient practice. Except in an emergency, a medical psychologist shall not prescribe a medication for any patient that is not a regular patient of the medical psychologist. A medical psychologist employed in an inpatient, emergency department or on-call setting shall be exempted from this provision.

(i) A medical psychologist shall not accept any reward, perk or incentive from any pharmaceutical manufacturer, distributor, or drug industry representative or third party connected with the manufacture, promotion or sale of a medication.

(k) A medical psychologist shall not accept any sample medications from any pharmaceutical manufacturer, distributor, or drug industry representative or third party connected with the manufacture or sale of a medication.

### **SEC 10. Collaboration With Primary Care Providers**

Medical psychologists who are authorized to prescribe psychotropic medications shall adhere to the following:

(a) Any patient considered for medication shall first be evaluated and cleared by the patient's primary care provider as to the patient's physical health and any contraindication for a psychotropic medication under consideration. Should the patient not have a designated primary care provider, the medical psychologist shall make every attempt to arrange a suitable referral.

(b) Routinely, medical psychologists shall provide the patient's designated primary care provider with a report of the patient's condition and medication regimen no less than once per year while under the psychologist's care.

### **SEC. 11. Amending Other Related Statutes**

(a) All statutes in the state's Health & Safety that define who can prescribe medications must be amended to include "medical Psychologists".

(b) All statutes in the state's Health & Safety that define who may take orders for a prescription must be amended to include "medical Psychologists" and should read: "Healthcare providers(nurses, psychiatric technicians etc) shall carry out oral and written orders for medications, patient monitoring, behavioral interventions, and diagnostic sampling from a "medical psychologist" and shall implement these orders when the orders are within the facility and psychology practice act defined role of the "medical psychologist".

