

A Prescription for the  
Future of Illinois' Psychologists

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I. INTRODUCTION

Expanding the scope of practice in the psychology field is a controversial topic.<sup>1</sup> In particular, many debate the issue of whether to grant state-licensed psychologists the ability to prescribe psychotropic (RxP) medications.<sup>2</sup> While psychiatrists are medical doctors with prescribing privileges, psychologists do not have medical degrees and in most states, are unable to obtain prescribing privileges.<sup>3</sup> Since 1989, the American Society for the Advancement of Pharmacotherapy (ASAP), part of the American Psychological Association (APA), lobbies and advocates for prescription privileges for psychologists.<sup>4</sup> The ASAP is greatly influential,

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1. Robert J. Resnick & John C. Norcross, *Prescription Privileges for Psychologists: Scared to Death?*, 9 CLINICAL PSYCHOL.: SCI. & PRAC. 270, 272 (2002).

2. Carrie R. Ball, *Limited Prescription Privileges for Psychologists: Review and Implications for the Practice of Psychology in Schools*, 46 PSYCHOL. IN THE SCH. 836, 836 (2009); Phyllis Coleman & Ronald A. Shellow, *Extending Physician's Standard of Care to Non-Physician Prescribers: The RX for Protecting Patients*, 35 IDAHO L. REV. 37, 38 (1998) (stating that the expanding the scope of practice of non-physician professionals to allow them to prescribe medication would be a mistake); Hooper, Lundy & Bookman, Inc., *Bill Granting Psychologists Prescription Authority Moves Forward*, 8 NO. 13 CAL. HEALTH L. MONITOR 2 (2000); *Real Mental Health Answers*, Letters to the Editor, CHI. SUN-TIMES (June 6, 2013).

3. Doug T. Graham, *Illinois Psychologists Want Ability to Prescribe Drugs*, DAILY HERALD, Mar. 20, 2013, available at [www.dailyherald.com/article/20130319/news/703199813/](http://www.dailyherald.com/article/20130319/news/703199813/); although without medical degrees, psychologists hold doctorates, complete a dissertation, and undergo specialized post-doctoral training. *Id.*

4. Brent Pollitt, *Fool's Gold: Psychologists Using Disingenuous Reasoning to Mislead Legislatures into Granting Psychologists Prescriptive Authority*, 29 AM. J.L. & MED. 489, 48 (2003); Ball, *supra* note 2, at 836; James E. Long, Jr., *Power to Prescribe: The Debate Over Prescription Privileges for Psychologists and the Legal Issues Implicated*, 29 LAW &

and two states, New Mexico and Louisiana, passed legislation granting psychologists the ability to prescribe after meeting requisite training requirements.<sup>5</sup> With New Mexico and Louisiana leading the way in scope of practice expansion in psychology, other states quickly followed with similar attempts at expansion.<sup>6</sup> Illinois was no exception, although their most recent attempt, Senate Bill 2187, failed.<sup>7</sup>

This article asserts that the problem of access to mental health care in Illinois may find resolution through legislation expanding psychologists' prescription privileges. However, future Illinois legislation establishing prescribing psychologists needs to define the scope of involvement of the supervising physician, to select an overseeing body without a conflict of interest, and to require additional training and coursework with a strong emphasis in the medical field. Part II will present arguments for and against allowing psychologists to prescribe RxP medications in Illinois. Further, Part III will examine provisions of Senate Bill 2187, compare main differences between other states' prescribing laws and Illinois' failed bill, and focus on the many controversies that the proposed bill sparked. Finally, Part IV will examine the legal consequences that would result from future Illinois legislation allowing psychologists the ability to prescribe.

## II. THE ONGOING DEBATE IN ILLINOIS

More than a quarter of American adults every year will have a diagnosable mental disorder based upon the *Diagnostic and Statistical Manual of Mental Disorders*.<sup>8</sup> In the United States, economic costs from

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PSYCHOL. REV. 243, 244 (2005).

5. Ball, *supra* note 2, at 836; Long, *supra* note 4 at 244.

6. Long, *supra* note 4, at 244.

7. See generally S.B. 2187, 98th Gen. Assemb., 1st Reg. Sess. (Ill. 2013) (providing statutory guidelines for allowing psychologists the right to prescribe psychotropic medications).

8. The *Diagnostic and Statistical Manual of Mental Disorders*, published by the

these disorders are at least \$315 billion.<sup>9</sup> In light of budget restraints, doctor shortages, and limited care options, this pressing demand for mental health care is especially obvious in Illinois.<sup>10</sup> In fact, more than fifty Illinois counties are without inpatient psychiatric services in their hospitals and twenty-four Illinois counties are without hospitals.<sup>11</sup> With only 1,300 psychiatrists for Illinois' population of over twelve million people, the shortage of mental health professionals with prescription power is a serious cause for concern.<sup>12</sup> People who need but cannot obtain the necessary mental health care often end up in hospitals or jails, ultimately becoming a financial burden to the state.<sup>13</sup> Including prescription privileges in psychologists' scope of practice could be the answer to Illinois' worsening mental health care shortage.<sup>14</sup>

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American Psychiatric Association, recognized by the United States healthcare system, and used by mental health professionals in the United States, lists all recognized mental disorders and their corresponding diagnostic criteria. *About DSM-5*, AM. PSYCH. ASS'N, [www.dsm5.org/about/Pages/Default.aspx](http://www.dsm5.org/about/Pages/Default.aspx) (last visited Dec. 3, 2013); Robin S. Rosenberg, *According to the New DSM-5, Odds Are You Will Have a Mental Disorder*, SLATE, [http://www.slate.com/articles/health\\_and\\_science/medical\\_examiner/2013/04/diagnostic\\_and\\_statistical\\_manual\\_fifth\\_edition\\_why\\_will\\_half\\_the\\_u\\_s\\_population.single.html](http://www.slate.com/articles/health_and_science/medical_examiner/2013/04/diagnostic_and_statistical_manual_fifth_edition_why_will_half_the_u_s_population.single.html) (last visited Nov. 3, 2013).

9. *Prescribing Psychologists, The RxP Difference: Answering the Crisis in Mental Health Care*, ILL. PSYCH. ASS'N, <http://www.illinoispsychology.org/prescribing-psychologists> (last visited Nov. 3, 2013) [hereinafter *The RxP Difference*].

10. *See generally id.* (explaining that with limited resources and a drastic amount of Illinoisans that need treatment, there is a serious demand for mental health care).

11. *Id.*

12. U.S. DEP'T OF COM., U.S. CENSUS BUREAU, STATE & COUNTY QUICKFACTS, ILL. (June 27, 2013), available at <http://quickfacts.census.gov/qfd/states/17000.html>; *see also Shaping the Debate: Focusing on Critical Illinois Health Care Issues*, ILLINOIS HOSP. ASS'N. 2 (May 2011), <http://www.ihatoday.org/uploadDocs/1/shapingdebatemay.pdf> [hereinafter *Shaping the Debate*] (claiming that 70% of the 84 medically underserved Illinois counties were without a psychiatrist); Bonnie Miller Rubin, *Health Professionals Split Over Allowing Psychologists to Prescribe Drugs*, CHI. TRIBUNE (May 12, 2013), [articles.chicagotribune.com/2013-05-12/health/ct-met-psychologists-prescriptions-20130512\\_1\\_psychologists-marlin-hoover-illinois-psychiatric-society](http://articles.chicagotribune.com/2013-05-12/health/ct-met-psychologists-prescriptions-20130512_1_psychologists-marlin-hoover-illinois-psychiatric-society).

13. *The RxP Difference, supra* note 9.

14. *See id.* (claiming that as a consequence of federal health care reform and Medicaid expansion, demand for mental health care will continue to grow).

*A. Prescribing Psychologists: a Solution to Illinois' Access Problem?*

Although unsuccessful, Senate Bill 2187 was not easily defeated.<sup>15</sup> Rather, on April 25, 2013, the Illinois State Senate passed the bill 37-10, making it the first bill to advance out of either chamber of the General Assembly.<sup>16</sup> However, on June 1, 2013, Illinois General Assembly Representative and Assistant Majority Leader John E. Bradley withdrew the bill from consideration in committee.<sup>17</sup>

Allowing psychologists to prescribe in Illinois appears to be the obvious solution to access problems. Bob Rinaldi, a psychologist at Adventist Hinsdale Hospital, claims the patients he refers with high end insurance have an eight-week wait to see a psychiatrist and that no psychiatrist is even willing to see underinsured individuals or those on Medicaid.<sup>18</sup> Illinois senators pinpoint the issue as a matter of access, dismissing arguments that allowing psychologists to prescribe would create issues of substandard care and emphasizing instead that the lack of access to psychiatrists already results in substandard care.<sup>19</sup> Because psychologists are found across more

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15. See Rafael Guerrero, *Senate Committee Passes Bill Allowing Psychologists to Prescribe Drugs*, CHI. TRIBUNE (Mar. 13, 2013), [http://articles.chicagotribune.com/2013-03-13/news/ct-met-illinois-legislature-psychologist-prescript-20130313\\_1\\_psychiatrists-psychologists-senate-committee](http://articles.chicagotribune.com/2013-03-13/news/ct-met-illinois-legislature-psychologist-prescript-20130313_1_psychiatrists-psychologists-senate-committee) (noting that the Senate Public Health Committee voted 8-0 to for the bill's advancement).

16. Lauren Leone-Cross, *Senate Approves Allowing Psychologists to Prescribe*, THE STATE J.-REG. (April 25, 2013), <http://www.sj-r.com/archive/x1973693914/Senate-approves-allowing-psychologists-to-prescribe>; *Bill Status of SB2187*, ILL. GEN. ASSEMB., <http://www.ilga.gov/legislation/BillStatus.asp?DocNum=2187&GAID=12&DocTypeID=SB&SessionID=85&GA=98> (last visited September 27, 2013); Rubin, *supra* note 12; see Graham, *supra* note 3.

17. Ken Hausman, *Prescribing Bill Dies in Illinois Legislature*, PSYCHIATRIC NEWS, June 13, 2013, available at <http://psychnews.psychiatryonline.org/newsarticle.aspx?articleid=1697770>.

18. Rubin, *supra* note 12. Dr. Jeff Weishaar of suburban psychological treatment group Compass Behavioral Health claims that patients sometimes wait upwards from six months to see a psychiatrist for a prescription. Graham, *supra* note 3.

19. See Guerrero, *supra* note 15 ("Illinois faces a critical shortage of mental health professionals who are trained to prescribe medicine, resulting in inadequate treatment for mental illness across the state."); see Leone-Cross, *supra* note 16 ("You know, opponents have contended that prescribing psychologists would provide substandard care. But I believe

Illinois counties than psychiatrists are, granting psychologists prescription privileges would increase access, especially in rural counties, thus increasing the supply of mental health professionals to meet the ongoing demand for mental health care.<sup>20</sup>

The APA claims that psychologists are competent and that legislatures should allow psychologists to prescribe.<sup>21</sup> The organization asserts that psychologists' education and clinical training allows them to better diagnose and treat mental illnesses than primary care physicians, that studies prove psychologists could safely prescribe RxP medications, and that post-doctoral training requirements sufficiently train psychologists to follow safe prescription practices.<sup>22</sup> The Illinois Psychological Association (IPA) adds that allowing psychologists to prescribe would satisfy the goals of providing underserved populations with access to mental health care, of allowing patients to gain a broader continuity of care from their psychologists, and furthering psychologists' expertise in and knowledge of brain-behavior relationships.<sup>23</sup>

#### *B. Merely a Turf War Issue or Genuine Cause for Concern?*

In order to succeed, future Illinois legislation expanding psychologists' scope of practice must include a provision requiring additional medical education that is comparable to the education that other non-physicians with

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that the lack of access to psychiatrists has already created substandard care for many in Illinois").

20. Graham, *supra* note 3; *see also Shaping the Debate*, *supra* note 12 (stating that of Illinois' 102 counties, fifty counties are without a psychiatrist and eighty-four counties have no child psychiatrist).

21. *See* Pollitt, *supra* note 4, at 490 (noting five main reasons why legislatures should allow psychologists the right to prescribe RxP medications).

22. *Id.*

23. *Prescriptive Authority for Psychologists. . . What is Being Proposed – and why?*, ILL. PSYCH. ASS'N., [www.illinoispsychology.org/RxP-FAQ](http://www.illinoispsychology.org/RxP-FAQ) (last visited Nov. 4, 2013) [hereinafter *Prescriptive Authority*].

prescribing privileges receive.<sup>24</sup> Illinois psychiatrists are medical doctors who have completed an Illinois State Medical Board-regulated four years of medical school, four years of a psychiatry residency, and one to two years of specialization.<sup>25</sup> Alternatively, Illinois psychologists possess doctorate degrees and undergo four years of academic training, consisting of three years of clinical experiences and a yearlong internship in a clinical setting, followed by a dissertation and postdoctoral position in his or her specialized field.<sup>26</sup> Some prominent Illinois psychiatrists argue that because psychologists can earn their degrees in an online, 462-hour class without spending any time in an anatomy or physiology lab, allowing psychologists to prescribe is an issue of public safety.<sup>27</sup> These psychiatrists further rebut the argument for increased access by stating that access to quality mental health care cannot improve by providing patients with mental health practitioners that have not undergone medical training and are unequipped to provide mental health care.<sup>28</sup> Many opponents are especially concerned about the potential emergence of avoidable drug side effects and

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24. See also Pollitt, *supra* note 4, at 503 (noting physicians, physician assistants, and nurse practitioners all undergo substantially more clinical training with mentally ill and non-mentally ill patients).

25. Graham, *supra* note 3; but cf. Pollitt, *supra* note 4, at 491 (asserting that “psychologists lack the requisite education and training to safely prescribe [RxP] medication”).

26. E.g. Graham, *supra* note 3. Coursework for Illinois clinical psychologists consists of 3 years of full-time graduate course work, covering: the biological basis of behavior; cognitive-affective basis of behavior; social basis of behavior; individual differences – theories of normal and abnormal personality functioning; assessment including clinical interviewing and the administration, scoring and interpretation of psychological tests; treatment modalities for mental, emotional, behavioral or nervous disorders; and ethics. *Prescriptive Authority*, *supra* note 23. Pre-doctoral clinical training consists of 1,500 hours. *Id.*

27. See Graham, *supra* note 3 (quoting Dr. Lisa Rone, Chicago psychiatrist, professor at Northwestern Medical School, and past president of the Illinois Psychiatric Association refuses to believe that the online, 462-hour class is a sufficient “substitute...for the understanding of anatomy, physiology, [and] organic chemistry”; see Pollitt, *supra* note 4, at 502).

28. Rubin, *supra* note 12; see also Pollitt, *supra* note 4, at 502 (showing that Psychology programs do not require medical science courses to be taken in order to successfully earn a Bachelor of Art, Master of Art, or Master of Science degree).

interactions.<sup>29</sup>

Likewise, the American Psychiatric Association and the Committee Against Medicalizing Psychology strongly oppose granting psychologists prescriptive authority, arguing that psychologists lack the medical education, training, and experience necessary to prescribe safely.<sup>30</sup> The American Medical Association (AMA) also points to the striking differences between the medical training of physicians and the lack of comparable training psychologists undergo.<sup>31</sup> Even some psychologists oppose the bill, citing insufficient training and potential risks to patients.<sup>32</sup> However, any future legislation requiring psychologists to undergo additional education and training emphasizing clinical experience, hands-on teaching, and the prescribing of medication under the direct supervision of doctors, would easily refute arguments opposing expansion of psychologists' scope of practice.<sup>33</sup>

If future Illinois proposals to expand psychologists' scope of practice mandate that psychologists seeking the prescription privilege undergo education and training similar to what other non-physician practitioners

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29. See Julia Johnson, *Whether States Should Create Prescription Power for Psychologists*, 33 LAW & PSYCHOL. REV. 167, 174 (2009) (noting that medications for the mentally ill are especially dangerous because of their direct effects on the chemistry within a patient's brain); Rubin, *supra* note 12; Letter from James L. Madara, M.D. Am. Med. Ass'n, to the Honorable John G. Mulroe, Senator 10th Dist, 2 (Mar. 12, 2013), available at <http://www.ama-assn.org/resources/doc/arc/il-ltr-2187.pdf> [hereinafter *AMA Letter*] (emphasizing that psychiatric medications for mental illnesses are most potent, interacting with other medications and affecting both central nervous system and other organs).

30. Pollitt, *supra* note 4, at 507.

31. See *AMA Letter*, *supra* note 29, at 2 (noting while physicians have more than 10,000 hours and seven to eleven years of clinical education and training, psychologists do not have any comparable training). Likewise, the Illinois Psychiatric Society, opposed to the Senate Bill 2187, claims that the bill brings serious concern for its impact on patient safety. Hausman, *supra* note 17.

32. Rubin, *supra* note 12.

33. Editorial, *Slow Down on Prescription Power, Psychologists and Mental Health Medicines*, CHI. TRIBUNE, (May 13, 2013), [http://articles.chicagotribune.com/2013-05-13/opinion/ct-edit-pills-0513-jm-20130513\\_1\\_technical-trends-psychologists-sudarshan-sukhani](http://articles.chicagotribune.com/2013-05-13/opinion/ct-edit-pills-0513-jm-20130513_1_technical-trends-psychologists-sudarshan-sukhani).

must undergo, the only opposition left would arise from a turf war.<sup>34</sup> Requiring more comprehensive education and training would rebut claims by expansion opponents that allowing psychologists to prescribe would disregard what is best for the patient.<sup>35</sup> More stringent educational requirements to obtain prescription privileges would dismiss doubts that prescribing non-physician healthcare providers and psychologists are comparable, as both groups of medical professionals would have a close working relationship with physicians.<sup>36</sup>

### III. THE CONTROVERSIAL SENATE BILL 2187

Senate Bill 2187 proposed that an individual is eligible for certification as a prescribing psychologist in Illinois if she or he completes a doctoral program in psychology, holds a state license to practice psychology in Illinois, graduates with a master's degree in clinical psychopharmacology, obtains certification by a supervising physician after completing a supervised and relevant clinical experience, and completes a national certifying exam.<sup>37</sup> To obtain certification by a supervision physician, the psychologist must complete at least an eighty hour supervised practicum in clinical assessment and pathophysiology and at least a 400 hour supervised practicum treating at least one-hundred mentally ill patients.<sup>38</sup>

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34. See Pollitt, *supra* note 4, at 521 (“Unfortunately, the psychologists seeking prescriptive authority view the situation as a “turf” war instead of what best serves the patient.”); *id.* (noting that this medical turf war is exemplified through psychologist and psychiatrists’ aggressive exchange of facts, figures, studies and claims).

35. See Pollitt, *supra* note 4, at 521 (claiming that psychologists’ pursuit of prescription privileges disregards what best serves the patient and instead is motivated by a desire to stay relevant in the future).

36. Rachel P. Berland, *Introducing Patient Scope of Care: Psychologists, Psychiatrists, and the Privilege to Prescribe Drugs*, 6 ST. LOUIS U. J. HEALTH L. & POL’Y 425, 446 (2013) (stating that criticisms of allowing psychologists to prescribe center around the claim that while prescribing non-physicians such as nurse practitioners have a medical background a close working relationship with physicians, psychologists do not).

37. S.B. 2187, 98th Gen. Assemb., 1st Reg. Sess. §§ 2(12), 4.1, 4.2 (Ill. 2013).

38. *Id.* at § 4.2 (4).

### A. Troubling Provisions

Despite requiring that psychologists complete an additional master's degree and 480 hours of supervised training, many remain unconvinced that satisfaction of these requirements is enough to justify allowing non-physician psychologists to prescribe medications.<sup>39</sup> The required curriculum necessary to complete the two year master's degree in clinical psychopharmacology includes, among others, anatomy and physiology, biochemistry, neurosciences.<sup>40</sup> However, opponents of the bill remain unpersuaded, bringing attention to the vague descriptions of the required training in the proposed legislation's text and the fact that online training courses and online master's degrees in psychopharmacology would satisfy the stated requirements.<sup>41</sup> Opponents further argue that select courses in anatomy, physiology, and biochemistry are not a substitute for a medical education.<sup>42</sup>

To succeed, future Illinois legislation proposals must address sufficient collaboration between medical doctors and prescribing psychologists. Primary care physicians who work with prescribing psychologists in New Mexico and Louisiana report positive results of the collaboration.<sup>43</sup> Both states, as part of their enacted legislation, implemented provisions to

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39. See Graham, *supra* note 3 (noting that a psychologist can earn his degree without any hands on lab experience and this is a serious flaw which concerns the public health).

40. *Id.*

41. *Id.*; Mark Moran, *Illinois Senate Gets Bill on Psychologist Prescribing*, PSYCHIATRIC NEWS (Mar. 15, 2013), <http://psychnews.psychiatryonline.org/newsArticle.aspx?articleid=1668022&RelatedWidgetArticles=true>.

42. See Moran, *supra* note 41 (“[P]eople who have gotten a doctoral degree in psychology . . . may or may not have ever had any of the training in the scientific areas . . . that medically trained individuals receive.”)

43. *The RxP Difference*, *supra* note 9; see also Dave McKinney, *State Senate OKs Bill to Let Psychologists Prescribe Mental Health Medications*, CHI. SUN-TIMES, May 29, 2013, available at <http://www.suntimes.com/news/metro/19720545-418/state-senate-oks-bill-to-let-psychologists-prescribe-mental-health-medications.html> (quoting Senator Harmon and noting the absence of complaints in states that have passed legislation allowing psychologists to prescribe).

minimize risks to patients.<sup>44</sup> In Louisiana, a prescribing psychologist can only issue a prescription with the primary physician's approval.<sup>45</sup> In New Mexico, the supervising physician is as responsible for the prescribing psychologist's action as the psychologist is, and assumes joint and several liability for the psychologist's acts or omissions.<sup>46</sup> Although Senate Bill 2187 requires that the certified prescribing psychologist maintains a written collaboration agreement with a physician, the cooperative working relationship between prescribing the psychologist and physician is vaguely defined.<sup>47</sup>

Future Illinois legislative proposals aimed at granting psychologists prescription privileges must better define the collaborative relationship between medical health care professionals. The failed bill's provisions are ambiguous, merely stating that a physician who signs a supervision agreement, or variation thereof, with a prescribing psychologist is not liable for the acts or omissions of the psychologist.<sup>48</sup> Furthermore, Senate Bill 2187 fails to provide a detailed description of what precisely consists of the collaborate relationship between a prescribing psychologist and medical physician.<sup>49</sup> In contrast, Illinois state provisions granting nurse practitioners the ability to prescribe RxP medications, do thoroughly define the corresponding roles of physician and nurse practitioners through a

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44. See Long, *supra* note 4, at 258.

45. *Id.*

46. *Id.*

47. See S.B. 2187, 98th Gen. Assemb., 1st Reg. Sess. § 4.4(d) (Ill. 2013) (stating the cooperative working relationship between the prescribing psychologist and physician should "include diagnosis and cooperation in the management and delivery of physical and mental health care").

48. *Id.* at § 54.5(e).

49. See S.B. 2187, 98th Gen. Assemb., 1st Reg. Sess. § 4.4(e) (Ill. 2013) (merely stating that a prescribing psychologist shall take measures, such as collecting a medical history, to ensure patient safety); see Moran, *supra* note 41.

formal legal agreement.<sup>50</sup> While the legal agreement between nurse practitioners and physicians contains provisions such as what may or may not be prescribed and requires that Schedule 2 prescriptions be limited to a thirty-day supply with refills approved by a collaborating physician, Senate Bill 2187 leaves the term written collaborative agreement virtually undefined.<sup>51</sup>

Perhaps most controversial was a provision of the bill that would allow Illinois' psychological licensing board to oversee prescribing credentials and activities.<sup>52</sup> The AMA strongly opposed this component of the bill, emphasizing that Senate Bill 2187 would inappropriately grant to the Illinois Board of Psychological Examiners the ability to determine the extent of prescriptive authority.<sup>53</sup> This bill stood in stark contrast with the legislation passed in Louisiana and New Mexico, where the enacted laws allowing psychologists to prescribe required each respective state medical licensing board to oversee and regulate.<sup>54</sup> Further, because the bill stipulates that a statewide organization representing licensed psychologists provide a minimum of twenty percent of the training that psychologists need to prescribe in the state, many claim that the bill directly financially benefits the Illinois Psychological Association, giving rise to an obvious conflict of interest.<sup>55</sup> To succeed, future proposed Illinois legislation to expand psychologists' scope of practice and include prescribing privileges must clearly describe required additional training and education, better

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50. See Moran, *supra* note 41 (noting that a prescribing nurses limitations are documented by a formal legal agreement).

51. *Id.*

52. See S.B. 2187, 98th Gen. Assemb., 1st Reg. Sess. § 4.3 (Il. 2013) (mandating a percentage of the prescribing psychologist's training to be provided by a "statewide organization").

53. See *AMA Letter*, *supra* note 29, at 1.

54. Hausman, *supra* note 17.

55. Moran, *supra* note 41; see Ill. S.B. 2187.

define the relationship between physicians and psychologists, address potential issues of liability, and allow Illinois' state medical licensing board to oversee prescribing psychologists' prescribing credentials and activities.<sup>56</sup>

### *B. Financial Ramifications*

Allowing psychologists to prescribe may be a step toward making psychiatric drugs more affordable.<sup>57</sup> Supporters of Bill 2187 claim that when people do not receive much-needed mental health care, they often end up in hospitals or jails, and in turn, greatly increase costs and taxes for Illinois citizens.<sup>58</sup> As a step toward increasing access and putting a stop to these cost increases, proponents of granting psychologists the privilege to prescribe argue that allowing psychologists to prescribe will generally reduce medical expenses, as patients will only have to visit one healthcare provider instead having to visit a psychologist for psychotherapy and a psychiatrist for medication.<sup>59</sup> Advocates remain hopeful, claiming that because many psychologists are already recommending what drugs should be prescribed to their patients, a one-stop shop makes the most sense.<sup>60</sup> Requiring patients to obtain a referral to see an additional healthcare provider for a prescription results in extra costs and time wasted for the patient, and many argue that allowing psychologists to obtain the appropriate training to prescribe not only make more economic sense, but would also result in more effective prescriptions.<sup>61</sup>

Allowing psychologists to obtain prescription privilege will result in

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56. See S.B. 2187, 98th Gen. Assemb., 1st Reg. Sess. §§ 2(12), 4.1-4.4 (Il. 2013).

57. See Pollitt, *supra* note 4, at 490-91; see *The RxP Difference*, *supra* note 9.

58. *The RxP Difference*, *supra* note 9.

59. *Id.*; Rubin, *supra* note 12.

60. Johnson, *supra* note 29, at 173.

61. *Id.*

lower costs for the citizens of Illinois.<sup>62</sup> A psychiatrist may earn \$150 for three 15-minute medication visits, but a psychologist may only earn \$90 for a forty-five minute talk therapy session<sup>63</sup>; however, savings would only become possible if prescribing psychologists do not dramatically raise their fees.<sup>64</sup> With the increased cost of additional education and malpractice insurance costs, prescribing psychologists are likely to charge more than they would have without this prescribing power.<sup>65</sup> Despite potential increases in psychologist fees, managed health care will likely support prescribing psychologists due to the potential for lower fees from a one-stop shop system.<sup>66</sup> As psychologists become the prescription writers, the need for psychiatrists will greatly diminish.<sup>67</sup>

#### IV. LEGAL CONSEQUENCES THAT WOULD EMERGE FROM GRANTING PSYCHOLOGISTS PRESCRIPTION PRIVILEGES

Courts in the United States are reluctant to hold prescribing non-physicians to the same standard of care of physicians when prescribing medications, and instead are more likely to apply the similar professional standard.<sup>68</sup> If psychologists in Illinois are allowed to prescribe medication,

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62. See *The RxP Difference*, *supra* note 9 (explaining how when a patient goes undiagnosed or does not receive the proper treatment, the patient can end up hurting themselves or others which may drive up costs via increasing state taxes to properly make up for their actions).

63. Gardiner Harris, *Talk Doesn't Pay, So Psychiatry Turns Instead to Drug Therapy*, N.Y. TIMES, Mar. 2011, available at [www.nytimes.com/2011/03/06/health/policy/06doctors.html?\\_r=0&pagewanted=print](http://www.nytimes.com/2011/03/06/health/policy/06doctors.html?_r=0&pagewanted=print). (see my previous comments about citing to electronic copies of print newspapers and adjusting accordingly).

64. Pollitt, *supra* note 4, at 519.

65. See also Long, *supra* note 4, at 258 (stating that the increased potential liability would give rise to a need to maintain malpractice insurance with greater coverage amounts or more expensive premiums); *id.*

66. Pollitt, *supra* note 4, at 521 (claiming that with the emergence of prescribing psychologists, psychologists will become "pseudo-psychiatrists," and that the need for psychiatrists and non-prescribing psychologists will disappear).

67. *Id.*

68. See *Baylor Med. Ctr. at Waxahachie, Baylor Health Care Sys. v. Wallace*, 278 S.W.3d 552, 558 (Tex.App. Dallas, 2009) (stating that there are different standards of care

Illinois courts would likely employ this similar professional standard, determined by taking into consideration the amount of training the prescribing psychologist received along with the reasonableness of his actions with respect to other psychologists in Illinois.<sup>69</sup> Prescribing psychologists would still be liable for negligently prescribing inappropriate medications, failing to warn or treat side effects, and failing to recognize or anticipate various drug interactions.<sup>70</sup> This similar professional standard appears troubling, as it seemingly punishes patients with a lower standard of care because they chose to consult a prescribing psychologist instead of a physician.<sup>71</sup> One possibility is that future proposed Illinois legislation may choose to follow New Mexico's example, deeming a supervising physician jointly and severally liable for the acts and omissions of the prescribing psychologist.<sup>72</sup>

#### IV. CONCLUSION

As of 2012, there are over twelve million people living in Illinois.<sup>73</sup> With the state's 1,300 psychiatrists and the estimated 614,000 residents needing treatment for serious mental illness, it is likely that the option of prescribing psychologists will resurface in proposed legislation.<sup>74</sup> To succeed, future Illinois legislation proposing the establishment of prescribing psychologists must define the scope of involvement of the supervising physician, select an overseeing body without a conflict of

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for doctors and other health care providers); see Long, *supra* note 4, at 257.

69. Long, *supra* note 4, at 257.

70. *Id.* at 258.

71. See *id.* at 257.

72. See *id.* at 257-58 (“[the] problem with this standard is it awards patients a lower amount of care just by seeing a psychologist who now performs tasks that were previously exclusive to psychiatrists or physicians”).

73. See U.S. DEP'T OF COM., *supra* note 15.

74. See *The RxP Difference*, *supra* note 9 (claiming that the shortage of government funding to assist those needing psychiatric services is not only insufficient, but also continues to grow); see Rubin, *supra* note 12.

interest, and require additional rigorous medical training and coursework.<sup>75</sup> One possible solution to overcome the comparable education hurdle could be to require psychologists seeking prescription privileges to undergo coursework emphasizing clinical experience and affording students the opportunity to prescribe medication under close physician supervision, such as that required of a physician's assistant or an advanced practice nurse.<sup>76</sup> Requiring such additional education could ease the opposition's concerns and ensure patient safety.<sup>77</sup>

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75. See *supra* Parts IIB and III. However, if and when such a bill resurfaces, it is clear that the opposition will be relentless. See Hausman, *supra* note 17 (noting APA Presidents Lieberman and Summergrad have indicated that the APA is ready to combat future bills similar to Senate Bill 2187).

76. Editorial, *supra* note 33.

77. See *id.*