

By: Goodwin

H.B. No. 343

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prescriptive authority of certain psychologists;
3 authorizing a fee.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 501.002, Occupations Code, is amended by
6 adding Subdivision (2-a) to read as follows:

7 (2-a) "Prescription drug" and "prescription drug
8 order" have the meanings assigned by Section 551.003.

9 SECTION 2. Section 501.003(a)(1), Occupations Code, is
10 amended to read as follows:

11 (1) "Practice of psychology" means:

12 (A) the observation, description, diagnosis,
13 evaluation, assessment, interpretation, or treatment of and
14 intervention in human behavior by applying education, training,
15 methods, and procedures for the purpose of:

16 (i) preventing, predicting, treating,
17 remediating, or eliminating:

18 (a) symptomatic, maladaptive, or
19 undesired behavior;

20 (b) emotional, interpersonal,
21 learning, substance use, neuropsychological, cognitive, or
22 behavioral disorders or disabilities, including those that
23 accompany medical problems; or

24 (c) mental illness;

1 (ii) evaluating, assessing, or
2 facilitating, by a license holder or a person who represents the
3 person to the public by a title or description of services that
4 includes the word "psychological," "psychologist," or
5 "psychology," the enhancement of individual, group, or
6 organizational effectiveness, including evaluating, assessing, or
7 facilitating:

- 8 (a) personal effectiveness;
- 9 (b) adaptive behavior;
- 10 (c) interpersonal relationships;
- 11 (d) academic, vocational, and life
12 adjustment;
- 13 (e) health; or
- 14 (f) individual, group, or
15 organizational performance;

16 (iii) providing psychological,
17 neuropsychological, and psychoeducational evaluation, therapy, and
18 remediation as well as counseling, psychoanalysis, psychotherapy,
19 hypnosis, and biofeedback; or

20 (iv) consulting with others, including
21 other mental health professionals, physicians, school personnel,
22 or organizations within the scope of the provider's competency and
23 training with respect to services provided for a specific
24 individual; [~~or~~]

25 (B) action taken under the authority granted by a
26 prescriptive authority certificate issued under Section 501.353;

27 or

1 (C) the supervision of an activity or service
2 described by Paragraph (A) or (B).

3 SECTION 3. Section 501.051(b), Occupations Code, is amended
4 to read as follows:

5 (b) To ensure adequate representation on the board of the
6 diverse fields of psychology, the governor in making appointments
7 under Subsection (a)(1) shall appoint:

8 (1) at least two members who provide psychological
9 services, at least one of whom holds a prescriptive authority
10 certificate issued under Section 501.353;

11 (2) at least one member who conducts research in the
12 field of psychology; and

13 (3) at least one member who teaches as a member of the
14 faculty of a psychological training institution.

15 SECTION 4. Subchapter D, Chapter 501, Occupations Code, is
16 amended by adding Section 501.152 to read as follows:

17 Sec. 501.152. ADVISORY COMMITTEE ON PRESCRIPTIVE
18 AUTHORITY. (a) The executive council shall appoint an advisory
19 committee on prescriptive authority for psychologists.

20 (a-1) Effective September 1, 2023, the advisory committee
21 consists of six members as follows:

22 (1) three members who each hold a prescriptive
23 authority certificate issued under Section 501.353;

24 (2) one member who is a psychiatrist;

25 (3) one member who is a pediatrician; and

26 (4) one member who represents the public.

27 (a-2) This subsection and Subsection (a-1) expire September

1 1, 2026.

2 (b) Effective September 1, 2026, the advisory committee
3 consists of six members as follows:

4 (1) five members who each hold a prescriptive
5 authority certificate issued under Section 501.353; and

6 (2) one member who represents the public.

7 (c) The advisory committee shall make recommendations to
8 the executive council and board regarding the regulation of
9 psychologists who hold prescriptive authority certificates issued
10 under Section 501.353, including recommendations concerning rules
11 to establish:

12 (1) eligibility requirements; and

13 (2) standards of practice for certificate holders.

14 (d) Chapter 2110, Government Code, does not apply to the
15 composition or duration of the advisory committee.

16 SECTION 5. Subchapter G, Chapter 501, Occupations Code, is
17 amended by adding Section 501.302 to read as follows:

18 Sec. 501.302. CONTINUING EDUCATION. The executive council
19 by rule shall require that, of the minimum number of hours of
20 continuing education required to renew a license as a psychologist,
21 half of that number of hours or 10 hours, whichever is less, must be
22 in the areas of pharmacology and pathophysiology if the
23 psychologist holds a prescriptive authority certificate issued
24 under Section 501.353.

25 SECTION 6. Subchapter H, Chapter 501, Occupations Code, is
26 amended by adding Sections 501.353 and 501.354 to read as follows:

27 Sec. 501.353. PRESCRIPTIVE AUTHORITY CERTIFICATE. (a) The

1 executive council shall issue a prescriptive authority certificate
2 to a psychologist who:

3 (1) meets the eligibility requirements of Subsection
4 (b);

5 (2) submits an application on a form prescribed by the
6 executive council;

7 (3) has not, in the two-year period preceding the date
8 of the application, had a prescriptive authority certificate
9 revoked; and

10 (4) pays the fee set by the executive council.

11 (b) To be eligible for a prescriptive authority certificate
12 a psychologist must:

13 (1) have completed a training program in
14 psychopharmacology from an institution of higher education or a
15 provider of continuing education approved by the executive council
16 that includes instruction in:

17 (A) basic life sciences;

18 (B) neuroscience;

19 (C) clinical and research pharmacology and
20 psychopharmacology;

21 (D) clinical pathophysiology;

22 (E) physical assessments and laboratory
23 examinations;

24 (F) clinical pharmacotherapeutics; and

25 (G) ethical and legal issues relevant to
26 prescriptive authority and associated research;

27 (2) pass a nationally recognized examination approved

1 by the executive council in the area of prescriptive authority; and
2 (3) provide evidence of professional liability
3 coverage.

4 (c) A psychologist who holds a prescriptive authority
5 certificate is authorized to:

6 (1) issue a prescription drug order;

7 (2) administer or dispense a prescription drug;

8 (3) order tests commonly associated with monitoring
9 the use of prescription drugs; and

10 (4) represent that the psychologist holds a
11 prescriptive authority certificate.

12 (d) The authority of a psychologist to issue a prescription
13 drug order or administer or dispense a prescription drug under a
14 prescriptive authority certificate is limited to a drug or device
15 related to the diagnosis, treatment, or management of emotional,
16 interpersonal, learning, substance use, neuropsychological,
17 cognitive, or behavioral disorders or disabilities, or mental
18 illness. A prescriptive authority certificate does not authorize
19 the prescribing, administering, or dispensing of an opioid.

20 (e) A psychologist who holds a prescriptive authority
21 certificate may only practice under the supervision of a physician
22 or a psychologist who meets the requirements of Section 501.354
23 until the certificate holder satisfies the supervised experience
24 requirement of that section.

25 (f) The executive council shall adopt rules to protect the
26 health of patients by requiring a psychologist who holds a
27 prescriptive authority certificate to notify a patient's primary

1 care physician or provider, if any, before the psychologist:

2 (1) issues a prescription drug order for a drug or
3 otherwise changes the type or dosage of any drug prescribed for the
4 patient; or

5 (2) administers or dispenses a prescription drug to
6 the patient.

7 (g) A primary care provider is not liable for an act of a
8 psychologist acting under a prescriptive authority certificate
9 based solely on the provider receiving a notification under
10 Subsection (f).

11 Sec. 501.354. REQUIRED SUPERVISED EXPERIENCE FOR
12 PRESCRIPTIVE AUTHORITY CERTIFICATE HOLDER. (a) Not later than the
13 second anniversary of the date of issuance of a prescriptive
14 authority certificate, the psychologist who holds the certificate
15 must complete at least 2,000 hours of practice under the authority
16 of the certificate treating not less than 100 patients under the
17 supervision of a physician or a psychologist who has maintained a
18 prescriptive authority certificate for the three years preceding
19 the date the supervision began. The supervision must be under a
20 written agreement approved by the executive council that requires
21 periodic meetings between the psychologist and supervising
22 provider.

23 (b) A physician or psychologist may not at any time
24 supervise under this section more than the full-time equivalent of
25 seven psychologists.

26 (c) Unless the supervising provider has reason to believe
27 the psychologist lacked the competency to perform the act, a

1 supervising provider is not liable for an act of a psychologist
2 solely because the provider entered into an agreement to supervise
3 the psychologist.

4 (d) The executive council shall revoke the prescriptive
5 authority certificate of a psychologist who does not complete the
6 supervised experience as required by Subsection (a).

7 SECTION 7. Section 481.002(39), Health and Safety Code, is
8 amended to read as follows:

9 (39) "Practitioner" means:

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

16 (B) a pharmacy, hospital, or other institution
17 licensed, registered, or otherwise permitted to distribute,
18 dispense, conduct research with respect to, or administer a
19 controlled substance in the course of professional practice or
20 research in this state;

21 (C) a person practicing in and licensed by
22 another state as a physician, dentist, veterinarian, psychologist,
23 or podiatrist, having a current Federal Drug Enforcement
24 Administration registration number, who may legally prescribe
25 Schedule II, III, IV, or V controlled substances in that state; or

26 (D) an advanced practice registered nurse or
27 physician assistant to whom a physician has delegated the authority

1 to prescribe or order a drug or device under Section 157.0511,
2 157.0512, or 157.054, Occupations Code.

3 SECTION 8. Section 481.074(d), Health and Safety Code, is
4 amended to read as follows:

5 (d) Except as specified in Subsections (e) and (f), the
6 board, by rule and in consultation with the Texas Medical Board and
7 the Texas Behavioral Health Executive Council, shall establish the
8 period after the date on which the prescription is issued that a
9 person may fill a prescription for a controlled substance listed in
10 Schedule II. A person may not refill a prescription for a substance
11 listed in Schedule II.

12 SECTION 9. Sections 481.076(a) and (c), Health and Safety
13 Code, are amended to read as follows:

14 (a) The board may not permit any person to have access to
15 information submitted to the board under Section 481.074(q) or
16 481.075 except:

17 (1) the board, the Texas Medical Board, the Texas
18 Department of Licensing and Regulation, with respect to the
19 regulation of podiatrists, the State Board of Dental Examiners, the
20 State Board of Veterinary Medical Examiners, the Texas Board of
21 Nursing, ~~or~~ the Texas Optometry Board, or the Texas Behavioral
22 Health Executive Council, with respect to the regulation of
23 psychologists, for the purpose of:

24 (A) investigating a specific license holder; or
25 (B) monitoring for potentially harmful
26 prescribing or dispensing patterns or practices under Section
27 481.0762;

1 (2) an authorized employee of the board engaged in the
2 administration, investigation, or enforcement of this chapter or
3 another law governing illicit drugs in this state or another state;

4 (3) the department or other law enforcement or
5 prosecutorial official engaged in the administration,
6 investigation, or enforcement of this chapter or another law
7 governing illicit drugs in this state or another state, if the board
8 is provided a warrant, subpoena, or other court order compelling
9 the disclosure;

10 (4) a medical examiner conducting an investigation;

11 (5) provided that accessing the information is
12 authorized under the Health Insurance Portability and
13 Accountability Act of 1996 (Pub. L. No. 104-191) and regulations
14 adopted under that Act:

15 (A) a pharmacist or a pharmacist-intern,
16 pharmacy technician, or pharmacy technician trainee, as defined by
17 Section 551.003, Occupations Code, acting at the direction of a
18 pharmacist, who is inquiring about a recent Schedule II, III, IV, or
19 V prescription history of a particular patient of the pharmacist;
20 or

21 (B) a practitioner who:

22 (i) is a physician, dentist, veterinarian,
23 podiatrist, optometrist, psychologist, or advanced practice nurse
24 or is a physician assistant described by Section 481.002(39)(D) or
25 an employee or other agent of a practitioner acting at the direction
26 of a practitioner; and

27 (ii) is inquiring about a recent Schedule

1 II, III, IV, or V prescription history of a particular patient of
2 the practitioner;

3 (6) a pharmacist or practitioner who is inquiring
4 about the person's own dispensing or prescribing activity or a
5 practitioner who is inquiring about the prescribing activity of an
6 individual to whom the practitioner has delegated prescribing
7 authority;

8 (7) one or more states or an association of states with
9 which the board has an interoperability agreement, as provided by
10 Subsection (j);

11 (8) a health care facility certified by the federal
12 Centers for Medicare and Medicaid Services; or

13 (9) the patient, the patient's parent or legal
14 guardian, if the patient is a minor, or the patient's legal
15 guardian, if the patient is an incapacitated person, as defined by
16 Section 1002.017(2), Estates Code, inquiring about the patient's
17 prescription record, including persons who have accessed that
18 record.

19 (c) The board by rule shall design and implement a system
20 for submission of information to the board by electronic or other
21 means and for retrieval of information submitted to the board under
22 this section and Sections 481.074 and 481.075. The board shall use
23 automated information security techniques and devices to preclude
24 improper access to the information. The board shall submit the
25 system design to the director, ~~and~~ the Texas Medical Board, and
26 the Texas Behavioral Health Executive Council for review and
27 comment a reasonable time before implementation of the system and

1 shall comply with the comments of those agencies unless it is
2 unreasonable to do so.

3 SECTION 10. Section 483.001(12), Health and Safety Code, is
4 amended to read as follows:

5 (12) "Practitioner" means:

6 (A) a person [~~licensed by~~]:

7 (i) licensed by the Texas Medical Board,
8 State Board of Dental Examiners, Texas Optometry Board, or State
9 Board of Veterinary Medical Examiners to prescribe and administer
10 dangerous drugs; [~~or~~]

11 (ii) licensed by the Texas Department of
12 Licensing and Regulation, with respect to podiatry, to prescribe
13 and administer dangerous drugs; or

14 (iii) certified by the Texas Behavioral
15 Health Executive Council, with respect to psychology, to prescribe
16 and administer dangerous drugs;

17 (B) a person licensed by another state in a
18 health field in which, under the laws of this state, a licensee may
19 legally prescribe dangerous drugs;

20 (C) a person licensed in Canada or Mexico in a
21 health field in which, under the laws of this state, a licensee may
22 legally prescribe dangerous drugs; or

23 (D) an advanced practice registered nurse or
24 physician assistant to whom a physician has delegated the authority
25 to prescribe or order a drug or device under Section 157.0511,
26 157.0512, or 157.054, Occupations Code.

27 SECTION 11. Sections 576.025(b), (c), (e), and (f), Health

1 and Safety Code, are amended to read as follows:

2 (b) Consent to the administration of psychoactive
3 medication given by a patient or by a person authorized by law to
4 consent on behalf of the patient is valid only if:

5 (1) the consent is given voluntarily and without
6 coercive or undue influence;

7 (2) the treating physician, a treating psychologist
8 who holds a prescriptive authority certificate, or a person
9 designated by the physician or psychologist, provided the following
10 information, in a standard format approved by the department, to
11 the patient and, if applicable, to the patient's representative
12 authorized by law to consent on behalf of the patient:

13 (A) the specific condition to be treated;

14 (B) the beneficial effects on that condition
15 expected from the medication;

16 (C) the probable health and mental health
17 consequences of not consenting to the medication;

18 (D) the probable clinically significant side
19 effects and risks associated with the medication;

20 (E) the generally accepted alternatives to the
21 medication, if any, and why the physician or psychologist
22 recommends that they be rejected; and

23 (F) the proposed course of the medication;

24 (3) the patient and, if appropriate, the patient's
25 representative authorized by law to consent on behalf of the
26 patient is informed in writing that consent may be revoked; and

27 (4) the consent is evidenced in the patient's clinical

1 record by a signed form prescribed by the facility or by a statement
2 of the [~~treating~~] physician or psychologist described by
3 Subdivision (2), or a person designated by the physician or the
4 psychologist, that documents that consent was given by the
5 appropriate person and the circumstances under which the consent
6 was obtained.

7 (c) If the [~~treating~~] physician or psychologist described
8 by Subsection (b)(2) designates another person to provide the
9 information under Subsection (b), then, not later than two working
10 days after that person provides the information, excluding weekends
11 and legal holidays, the physician or psychologist shall meet with
12 the patient and, if appropriate, the patient's representative who
13 provided the consent, to review the information and answer any
14 questions.

15 (e) In prescribing psychoactive medication, a [~~treating~~]
16 physician or psychologist described by Subsection (b)(2) shall:

17 (1) prescribe, consistent with clinically appropriate
18 medical care, the medication that has the fewest side effects or the
19 least potential for adverse side effects, unless the class of
20 medication has been demonstrated or justified not to be effective
21 clinically; and

22 (2) administer the smallest therapeutically
23 acceptable dosages of medication for the patient's condition.

24 (f) If a physician or psychologist described by Subsection
25 (b)(2) issues an order to administer psychoactive medication to a
26 patient without the patient's consent because the patient is having
27 a medication-related emergency:

1 (1) the physician or psychologist shall document in
2 the patient's clinical record in specific medical or behavioral
3 terms the necessity of the order and that the physician or
4 psychologist has evaluated but rejected other generally accepted,
5 less intrusive forms of treatment, if any; and

6 (2) treatment of the patient with the psychoactive
7 medication shall be provided in the manner, consistent with
8 clinically appropriate medical care, least restrictive of the
9 patient's personal liberty.

10 SECTION 12. Section [301.002\(2\)](#), Occupations Code, is
11 amended to read as follows:

12 (2) "Professional nursing" means the performance of an
13 act that requires substantial specialized judgment and skill, the
14 proper performance of which is based on knowledge and application
15 of the principles of biological, physical, and social science as
16 acquired by a completed course in an approved school of
17 professional nursing. The term does not include acts of medical
18 diagnosis or the prescription of therapeutic or corrective
19 measures. Professional nursing involves:

20 (A) the observation, assessment, intervention,
21 evaluation, rehabilitation, care and counsel, or health teachings
22 of a person who is ill, injured, infirm, or experiencing a change in
23 normal health processes;

24 (B) the maintenance of health or prevention of
25 illness;

26 (C) the administration of a medication or
27 treatment as ordered by a health care practitioner legally

1 authorized to prescribe the medication or treatment [~~physician,~~
2 ~~podiatrist, or dentist~~];

3 (D) the supervision or teaching of nursing;

4 (E) the administration, supervision, and
5 evaluation of nursing practices, policies, and procedures;

6 (F) the requesting, receiving, signing for, and
7 distribution of prescription drug samples to patients at practices
8 at which an advanced practice registered nurse is authorized to
9 sign prescription drug orders as provided by Subchapter B, Chapter
10 157;

11 (G) the performance of an act delegated by a
12 physician under Section 157.0512, 157.054, 157.058, or 157.059; and

13 (H) the development of the nursing care plan.

14 SECTION 13. Section 551.003(34), Occupations Code, is
15 amended to read as follows:

16 (34) "Practitioner" means:

17 (A) a person licensed, certified, or registered
18 to prescribe, distribute, administer, or dispense a prescription
19 drug or device in the course of professional practice in this state,
20 including a physician, dentist, podiatrist, psychologist, or
21 veterinarian but excluding a person licensed under this subtitle;

22 (B) a person licensed by another state, Canada,
23 or the United Mexican States in a health field in which, under the
24 law of this state, a license or certificate holder in this state may
25 legally prescribe a dangerous drug;

26 (C) a person practicing in another state and
27 licensed by another state as a physician, dentist, veterinarian,

1 psychologist, or podiatrist, who has a current federal Drug
2 Enforcement Administration registration number and who may legally
3 prescribe a Schedule II, III, IV, or V controlled substance, as
4 specified under Chapter 481, Health and Safety Code, in that other
5 state; or

6 (D) an advanced practice registered nurse or
7 physician assistant to whom a physician has delegated the authority
8 to prescribe or order a drug or device under Section 157.0511,
9 157.0512, or 157.054.

10 SECTION 14. Section 501.051(b), Occupations Code, as
11 amended by this Act, does not affect the entitlement of a member
12 serving on the Texas State Board of Examiners of Psychologists
13 immediately before the effective date of this Act to continue to
14 serve for the remainder of the member's term. With the first
15 appointment of a member described by Section 501.051(a)(1),
16 Occupations Code, to be made by the governor on or after the
17 effective date of this Act, the governor shall appoint a member to
18 the board who has the qualifications required by Section
19 501.051(b), Occupations Code, as amended by this Act.

20 SECTION 15. (a) Not later than December 1, 2023, the Texas
21 Behavioral Health Executive Council shall appoint members of the
22 advisory committee in accordance with Section 501.152(a-1),
23 Occupations Code, as added by this Act.

24 (b) Not later than June 1, 2024, the advisory committee
25 shall make initial recommendations to the Texas Behavioral Health
26 Executive Council and the Texas State Board of Examiners of
27 Psychologists as described by Section 501.152(c), Occupations

1 Code, as added by this Act.

2 (c) Not later than December 1, 2026, the Texas Behavioral
3 Health Executive Council shall appoint members to the advisory
4 committee so that the composition of the committee complies with
5 Section 501.152(b), Occupations Code, as added by this Act.

6 SECTION 16. Not later than September 1, 2024, the Texas
7 Behavioral Health Executive Council shall adopt rules and
8 procedures necessary to implement Sections 501.353 and 501.354,
9 Occupations Code, as added by this Act.

10 SECTION 17. This Act takes effect September 1, 2023.