

By: Noriega

H.B. No. 3451

A BILL TO BE ENTITLED

AN ACT

relating to the prescriptive authority of certain psychologists.

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

SECTION 1. Section 301.002(2), Occupations Code, is amended to read as follows:

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

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

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

(C) the administration of a medication or treatment as ordered by a physician, podiatrist, psychologist who holds a prescriptive authority certificate, or dentist;

(D) the supervision or teaching of nursing;

(E) the administration, supervision, and

1 evaluation of nursing practices, policies, and procedures;

2 (F) the requesting, receiving, signing for, and  
3 distribution of prescription drug samples to patients at sites in  
4 which a registered nurse is authorized to sign prescription drug  
5 orders as provided by Subchapter B, Chapter 157; and

6 (G) the performance of an act delegated by a  
7 physician under Section 157.052, 157.053, 157.054, 157.0541,  
8 157.0542, 157.058, or 157.059.

9 SECTION 2. Section 501.002, Occupations Code, is amended  
10 to read as follows:

11 Sec. 501.002. DEFINITIONS. In this chapter:

12 (1) "Board" means the Texas State Board of Examiners  
13 of Psychologists.

14 (2) "Licensed specialist in school psychology" means a  
15 person who holds a license to engage in the practice of psychology  
16 under Section 501.260.

17 (3) "Prescription drug" has the meaning assigned by  
18 Section 551.003.

19 (4) "Prescription drug order" has the meaning assigned  
20 by Section 551.003.

21 (5) "Prescriptive authority certificate" means a  
22 certificate issued by the board that grants the authority to a  
23 psychologist to issue a prescription drug order, to administer or  
24 dispense a prescription drug, and to order tests to monitor the use  
25 of prescription drugs.

26 (6) "Provisional license holder" means a person who  
27 holds a license to engage in the practice of psychology under

Section 501.253.

(7) [~~(4)~~] "Psychological associate" means a person who holds a license to engage in the practice of psychology issued under Section 501.259.

(8) [~~(5)~~] "Psychologist" means a person who holds a license to engage in the practice of psychology issued under Section 501.252.

SECTION 3. Section 501.003(c), Occupations Code, is amended to read as follows:

(c) The practice of psychology:

(1) includes providing or offering to provide services to an individual or group, including providing computerized procedures, that include the application of established principles, methods, and procedures of describing, explaining, and ameliorating behavior;

(2) addresses normal behavior and involves evaluating, preventing, and remediating psychological, emotional, mental, interpersonal, learning, and behavioral disorders of individuals or groups, as well as the psychological disorders that accompany medical problems, organizational structures, stress, and health;

(3) includes:

(A) using projective techniques, neuropsychological testing, counseling, career counseling, psychotherapy, hypnosis for health care purposes, hypnotherapy, and biofeedback; ~~and~~

(B) evaluating and treating mental or emotional

disorders and disabilities by psychological techniques and procedures; and

(C) acting under the authority granted by a prescriptive authority certificate; and

(4) is based on:

(A) a systematic body of knowledge and principles acquired in an organized program of graduate study; and

(B) the standards of ethics established by the profession.

SECTION 4. Subchapter F, Chapter 501, Occupations Code, is amended by adding Section 501.265 to read as follows:

Sec. 501.265. PRESCRIPTIVE AUTHORITY CERTIFICATE. (a) A psychologist may not issue a prescription drug order, administer or dispense a prescription drug, order tests to monitor the use of prescription drugs, or represent that the person holds a prescriptive authority certificate unless the person holds a prescriptive authority certificate under this section.

(b) To be eligible for a certificate under this section, a psychologist must apply to the board and demonstrate that the person:

(1) is a provider of health services as determined by the American Psychological Association;

(2) has completed a postdoctoral training program in psychopharmacology from an institution of higher education or a provider of continuing education approved by the board that at a minimum satisfies the training recommendations of the American Psychological Association; and

1           (3) has sufficient knowledge and skill to exercise  
2 prescriptive authority by passing an examination under this section  
3 approved by the board.

4           (c) The board shall adopt rules to protect the public health  
5 that require a psychologist who holds a certificate under this  
6 section to consult with a patient's treating physician within a  
7 reasonable time after the psychologist issues a prescription drug  
8 order for or administers or dispenses a prescription drug to the  
9 patient.

10           SECTION 5.     Section 551.003(34), Occupations Code, is  
11 amended to read as follows:

12           (34) "Practitioner" means:

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

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

22                   (C) a person practicing in another state and  
23 licensed by another state as a physician, dentist, veterinarian,  
24 psychologist, or podiatrist, who has a current federal Drug  
25 Enforcement Administration registration number and who may legally  
26 prescribe a Schedule II, III, IV, or V controlled substance, as  
27 specified under Chapter 481, Health and Safety Code, in that other

1 state; or

2 (D) an advanced practice nurse or physician  
3 assistant to whom a physician has delegated the authority to carry  
4 out or sign prescription drug orders under Section 157.052,  
5 157.053, 157.054, 157.0541, or 157.0542.

6 SECTION 6. Section 481.002(39), Health and Safety Code, is  
7 amended to read as follows:

8 (39) "Practitioner" means:

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

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

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

25 SECTION 7. Section 483.001(12), Health and Safety Code, is  
26 amended to read as follows:

27 (12) "Practitioner" means a person licensed or

1 certified:

2 (A) by the Texas State Board of Medical  
3 Examiners, State Board of Dental Examiners, Texas State Board of  
4 Podiatric Medical Examiners, Texas Optometry Board, Texas State  
5 Board of Examiners of Psychologists, or State Board of Veterinary  
6 Medical Examiners to prescribe and administer dangerous drugs;

7 (B) by another state in a health field in which,  
8 under the laws of this state, a licensee may legally prescribe  
9 dangerous drugs;

10 (C) in Canada or Mexico in a health field in  
11 which, under the laws of this state, a licensee may legally  
12 prescribe dangerous drugs; or

13 (D) an advanced practice nurse or physician  
14 assistant to whom a physician has delegated the authority to carry  
15 out or sign prescription drug orders under Section 157.052,  
16 157.053, 157.054, 157.0541, or 157.0542, Occupations Code.

17 SECTION 8. Sections 576.025(b), (c), (e), and (f), Health  
18 and Safety Code, are amended to read as follows:

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

22 (1) the consent is given voluntarily and without  
23 coercive or undue influence;

24 (2) the treating physician or a psychologist who holds  
25 a prescriptive authority certificate, or a person designated by the  
26 physician or psychologist, provided the following information, in a  
27 standard format approved by the department, to the patient and, if

1 applicable, to the patient's representative authorized by law to  
2 consent on behalf of the patient:

3 (A) the specific condition to be treated;

4 (B) the beneficial effects on that condition  
5 expected from the medication;

6 (C) the probable health and mental health  
7 consequences of not consenting to the medication;

8 (D) the probable clinically significant side  
9 effects and risks associated with the medication;

10 (E) the generally accepted alternatives to the  
11 medication, if any, and why the physician or psychologist  
12 recommends that they be rejected; and

13 (F) the proposed course of the medication;

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

17 (4) the consent is evidenced in the patient's clinical  
18 record by a signed form prescribed by the facility or by a statement  
19 of the treating physician or psychologist described by Subdivision  
20 (2), or a person designated by the physician or the psychologist,  
21 that documents that consent was given by the appropriate person and  
22 the circumstances under which the consent was obtained.

23 (c) If the treating physician or psychologist designates  
24 another person to provide the information under Subsection (b),  
25 then, not later than two working days after that person provides the  
26 information, excluding weekends and legal holidays, the physician  
27 or psychologist shall meet with the patient and, if appropriate,



1 the patient's representative who provided the consent, to review  
2 the information and answer any questions.

3 (e) In prescribing psychoactive medication, a treating  
4 physician or psychologist described by Subsection (b)(2) shall:

5 (1) prescribe, consistent with clinically appropriate  
6 medical care, the medication that has the fewest side effects or the  
7 least potential for adverse side effects, unless the class of  
8 medication has been demonstrated or justified not to be effective  
9 clinically; and

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

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

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

21 (2) treatment of the patient with the psychoactive  
22 medication shall be provided in the manner, consistent with  
23 clinically appropriate medical care, least restrictive of the  
24 patient's personal liberty.

25 SECTION 9. This Act takes effect September 1, 2003.