

By: Klick

H.B. No. 1415

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and authority of advanced practice registered nurses.

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

ARTICLE 1. ADVANCED PRACTICE REGISTERED NURSES

SECTION 1.001. Section 301.002, Occupations Code, is amended by amending Subdivision (2) and adding Subdivisions (6), (7), (8), (9), and (10) to read as follows:

(2) "Professional nursing" means the performance 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 the prescription of therapeutic or corrective measures, except as authorized for advanced practice registered nurses. 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

1 treatment as ordered by a health care practitioner legally
2 authorized to prescribe the medication or treatment [~~physician,~~
3 ~~podiatrist, or dentist~~];

4 (D) the supervision or teaching of nursing;

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

7 (F) the performance of an act by an advanced
8 practice registered nurse in accordance with Section 301.357 [~~the~~
9 ~~requesting, receiving, signing for, and distribution of~~
10 ~~prescription drug samples to patients at practices at which an~~
11 ~~advanced practice registered nurse is authorized to sign~~
12 ~~prescription drug orders as provided by Subchapter B, Chapter 157~~];

13 (G) the performance of an act delegated by a
14 physician under Section [~~157.0512, 157.054,~~] 157.058[~~7~~] or
15 157.059; and

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

17 (6) "Controlled substance" has the meaning assigned by
18 Section 157.051.

19 (7) "Dangerous drug" has the meaning assigned by
20 Section 157.051.

21 (8) "Device" has the meaning assigned by Section
22 157.051.

23 (9) "Nonprescription drug" has the meaning assigned by
24 Section 157.051.

25 (10) "Prescribe or order a drug or device" has the
26 meaning assigned by Section 157.051.

27 SECTION 1.002. Section 301.152, Occupations Code, is

transferred to Subchapter H, Chapter 301, Occupations Code, redesignated as Section 301.357, Occupations Code, and amended to read as follows:

Sec. 301.357 [~~301.152~~]. ADVANCED PRACTICE REGISTERED NURSES [~~RULES REGARDING SPECIALIZED TRAINING~~]. (a) In this section, "advanced practice registered nurse" means a registered nurse licensed by the board to practice as an advanced practice registered nurse on the basis of completion of an advanced educational program. The term includes a nurse practitioner, nurse midwife, nurse anesthetist, and clinical nurse specialist. The term is synonymous with "advanced nurse practitioner" and "advanced practice nurse."

(a-1) Advanced practice registered nursing includes:

(1) ordering, performing, and interpreting diagnostic tests;

(2) formulating primary and differential medical diagnoses and advanced assessments;

(3) treating actual and potential health problems;

(4) prescribing therapeutic and corrective measures, including nutrition and diagnostic support services, home health care, hospice care, physical therapy, and occupational therapy, and delegating and assigning the performance of therapeutic and corrective measures to assistive personnel;

(5) to the extent authorized by the board under Section 301.358 or delegated by a physician under Section 157.058 or 157.059, prescribing, ordering, procuring, administering, and dispensing drugs and devices, including blood and blood products,

1 controlled substances listed in Schedules II, III, IV, and V,
2 dangerous drugs, and nonprescription drugs;

3 (6) providing referrals to health care agencies,
4 health care providers, and community resources;

5 (7) serving as the primary care provider of record;
6 and

7 (8) performing other acts that require education and
8 training consistent with professional standards and that are
9 commensurate with the advanced practice registered nurse's
10 education, licensure, and demonstrated competencies and
11 experience.

12 (b) The board shall adopt rules to:

13 (1) license a registered nurse as an advanced practice
14 registered nurse;

15 (2) establish:

16 (A) any specialized education or training,
17 including pharmacology, that an advanced practice registered nurse
18 must have to prescribe or order a drug or device as authorized
19 ~~[delegated]~~ by the board ~~[a physician]~~ under Section 301.358
20 ~~[157.0512 or 157.054];~~

21 (B) a system for approving an advanced practice
22 registered nurse to prescribe or order a drug or device as
23 authorized ~~[delegated]~~ by the board ~~[a physician]~~ under Section
24 301.358 ~~[157.0512 or 157.054]~~ on the receipt of evidence of
25 completing the specialized education and training requirement
26 under Paragraph (A); and

27 (C) a system for issuing a prescription

1 authorization number to an advanced practice registered nurse
2 approved under Paragraph (B); and

3 (3) concurrently renew any license or approval granted
4 to an advanced practice registered nurse under this subsection and
5 a license renewed by the advanced practice registered nurse under
6 Section 301.301.

7 (c) At a minimum, the rules adopted under Subsection (b)(2)
8 must:

9 (1) require completion of pharmacology and related
10 pathophysiology education for initial approval; and

11 (2) require continuing education in clinical
12 pharmacology and related pathophysiology in addition to any
13 continuing education otherwise required under Section 301.303.

14 (d) The signature of an advanced practice registered nurse
15 attesting to the provision of a legally authorized service by the
16 advanced practice registered nurse satisfies any documentation
17 requirement for that service established by a state agency.

18 (e) An advanced practice registered nurse shall practice as
19 a licensed independent practitioner in accordance with standards
20 established and recognized by the board to protect the public
21 health and safety.

22 (f) An advanced practice registered nurse is accountable to
23 patients, the nursing profession, and the board for:

24 (1) complying with the requirements of this chapter;

25 (2) providing quality advanced nursing care;

26 (3) recognizing the nurse's limits of knowledge;

27 (4) planning for the management of situations beyond

1 the nurse's expertise; and

2 (5) consulting with or referring patients to other
3 health care providers as appropriate.

4 (g) This section does not limit or modify the scope of
5 practice of a registered nurse who is not an advanced practice
6 registered nurse.

7 SECTION 1.003. Subchapter H, Chapter 301, Occupations Code,
8 is amended by adding Section 301.358 to read as follows:

9 Sec. 301.358. PRESCRIBING AND ORDERING AUTHORITY OF
10 ADVANCED PRACTICE REGISTERED NURSE. (a) The board may authorize an
11 advanced practice registered nurse, with a prescription
12 authorization number issued as required under Section 301.357(b),
13 to prescribe and order drugs and devices, including controlled
14 substances listed in Schedules III, IV, and V, dangerous drugs, and
15 nonprescription drugs.

16 (b) The board may authorize an advanced practice registered
17 nurse, with a prescription authorization number issued as required
18 under Section 301.357(b), to prescribe and order controlled
19 substances listed in Schedule II only:

20 (1) in a hospital facility-based practice in
21 accordance with policies approved by the hospital's medical staff
22 or a committee of the hospital's medical staff as provided by the
23 hospital bylaws to ensure patient safety, and as part of the care
24 provided to a patient who:

25 (A) has been admitted to the hospital and is
26 expected to remain in the hospital for a period of 24 hours or more;

27 or

1 (B) is receiving services in the emergency
2 department of the hospital; or

3 (2) as part of the plan of care for the treatment of a
4 person who has executed a written certification of a terminal
5 illness, has elected to receive hospice care, and is receiving
6 hospice treatment from a qualified hospice provider.

7 ARTICLE 2. CONFORMING AMENDMENTS REGARDING DELEGATION

8 SECTION 2.001. The heading to Subchapter B, Chapter 157,
9 Occupations Code, is amended to read as follows:

10 SUBCHAPTER B. DELEGATION TO ~~[ADVANCED PRACTICE REGISTERED NURSES~~
11 ~~AND]~~ PHYSICIAN ASSISTANTS AND CERTAIN ADVANCED PRACTICE REGISTERED
12 NURSES

13 SECTION 2.002. Sections 157.051(1) and (14), Occupations
14 Code, are amended to read as follows:

15 (1) "Advanced practice registered nurse" has the
16 meaning assigned to that term by Section 301.357 ~~[301.152]~~. The
17 term includes an advanced nurse practitioner and advanced practice
18 nurse.

19 (14) "Prescriptive authority agreement" means an
20 agreement entered into by a physician and a ~~[an advanced practice~~
21 ~~registered nurse or]~~ physician assistant through which the
22 physician delegates to the ~~[advanced practice registered nurse or]~~
23 physician assistant the act of prescribing or ordering a drug or
24 device.

25 SECTION 2.003. Section 157.0511(b-2), Occupations Code, is
26 amended to read as follows:

27 (b-2) The board shall adopt rules that require a physician

1 who delegates the prescribing or ordering of a drug or device to
2 register with the board the name and license number of the physician
3 assistant ~~[or advanced practice registered nurse]~~ to whom a
4 delegation is made. The board may develop and use an electronic
5 online delegation registration process for registration under this
6 subsection.

7 SECTION 2.004. Sections [157.0512](#)(a), (b), (c), (e), (f),
8 (g), (i), (j), (l), (m), (n), and (o), Occupations Code, are amended
9 to read as follows:

10 (a) A physician may delegate to a ~~[an advanced practice~~
11 ~~registered nurse or]~~ physician assistant, acting under adequate
12 physician supervision, the act of prescribing or ordering a drug or
13 device as authorized through a prescriptive authority agreement
14 between the physician and the ~~[advanced practice registered nurse~~
15 ~~or]~~ physician assistant~~[, as applicable]~~.

16 (b) A physician and a ~~[an advanced practice registered nurse~~
17 ~~or]~~ physician assistant are eligible to enter into or be parties to
18 a prescriptive authority agreement only if:

19 (1) ~~[if applicable, the Texas Board of Nursing has~~
20 ~~approved the advanced practice registered nurse's authority to~~
21 ~~prescribe or order a drug or device as authorized under this~~
22 ~~subchapter,~~

23 ~~[(2)]~~ the ~~[advanced practice registered nurse or]~~
24 physician assistant:

25 (A) holds an active license to practice in this
26 state as a ~~[an advanced practice registered nurse or]~~ physician
27 assistant~~[, as applicable,]~~ and is in good standing in this state;

1 and

2 (B) is not currently prohibited by the [~~Texas~~
3 ~~Board of Nursing or the~~] Texas Physician Assistant Board[, ~~as~~
4 ~~applicable,~~] from executing a prescriptive authority agreement;
5 and

6 (2) [~~(3)~~] before executing the prescriptive authority
7 agreement, the physician and the [~~advanced practice registered~~
8 ~~nurse or~~] physician assistant disclose to the other prospective
9 party to the agreement any prior disciplinary action by the board[, ~~the Texas Board of Nursing,~~
10 ~~or the Texas Physician Assistant~~
11 ~~Board[, as applicable].~~

12 (c) Except as provided by Subsection (d), the [~~combined~~
13 number of [~~advanced practice registered nurses and~~] physician
14 assistants with whom a physician may enter into a prescriptive
15 authority agreement may not exceed seven [~~advanced practice~~
16 ~~registered nurses and~~] physician assistants or the full-time
17 equivalent of seven [~~advanced practice registered nurses and~~]
18 physician assistants.

19 (e) A prescriptive authority agreement must, at a minimum:

20 (1) be in writing and signed and dated by the parties
21 to the agreement;

22 (2) state the name, address, and all professional
23 license numbers of the parties to the agreement;

24 (3) state the nature of the practice, practice
25 locations, or practice settings;

26 (4) identify the types or categories of drugs or
27 devices that may be prescribed or the types or categories of drugs

1 or devices that may not be prescribed;

2 (5) provide a general plan for addressing consultation
3 and referral;

4 (6) provide a plan for addressing patient emergencies;

5 (7) state the general process for communication and
6 the sharing of information between the physician and the ~~[advanced~~
7 ~~practice-registered nurse or]~~ physician assistant to whom the
8 physician has delegated prescriptive authority related to the care
9 and treatment of patients;

10 (8) if alternate physician supervision is to be
11 utilized, designate one or more alternate physicians who may:

12 (A) provide appropriate supervision on a
13 temporary basis in accordance with the requirements established by
14 the prescriptive authority agreement and the requirements of this
15 subchapter; and

16 (B) participate in the prescriptive authority
17 quality assurance and improvement plan meetings required under this
18 section; and

19 (9) describe a prescriptive authority quality
20 assurance and improvement plan and specify methods for documenting
21 the implementation of the plan that includes the following:

22 (A) chart review, with the number of charts to be
23 reviewed determined by the physician and ~~[advanced practice~~
24 ~~registered nurse or]~~ physician assistant; and

25 (B) periodic face-to-face meetings between the
26 ~~[advanced practice-registered nurse or]~~ physician assistant and the
27 physician at a location determined by the physician and the

1 ~~[advanced practice registered nurse or]~~ physician assistant.

2 (f) The periodic face-to-face meetings described by
3 Subsection (e)(9)(B) must:

4 (1) include:

5 (A) the sharing of information relating to
6 patient treatment and care, needed changes in patient care plans,
7 and issues relating to referrals; and

8 (B) discussion of patient care improvement; and

9 (2) be documented and occur:

10 (A) except as provided by Paragraph (B):

11 (i) at least monthly until the third
12 anniversary of the date the agreement is executed; and

13 (ii) at least quarterly after the third
14 anniversary of the date the agreement is executed, with monthly
15 meetings held between the quarterly meetings by means of a remote
16 electronic communications system, including videoconferencing
17 technology or the Internet; or

18 (B) if during the seven years preceding the date
19 the agreement is executed the ~~[advanced practice registered nurse~~
20 ~~or]~~ physician assistant for at least five years was in a practice
21 that included the exercise of prescriptive authority with required
22 physician supervision:

23 (i) at least monthly until the first
24 anniversary of the date the agreement is executed; and

25 (ii) at least quarterly after the first
26 anniversary of the date the agreement is executed, with monthly
27 meetings held between the quarterly meetings by means of a remote

1 electronic communications system, including videoconferencing
2 technology or the Internet.

3 (g) The prescriptive authority agreement may include other
4 provisions agreed to by the physician and ~~[advanced practice~~
5 ~~registered nurse or]~~ physician assistant.

6 (i) The prescriptive authority agreement need not describe
7 the exact steps that a ~~[an advanced practice registered nurse or]~~
8 physician assistant must take with respect to each specific
9 condition, disease, or symptom.

10 (j) A physician~~[, advanced practice registered nurse,]~~ or
11 physician assistant who is a party to a prescriptive authority
12 agreement must retain a copy of the agreement until the second
13 anniversary of the date the agreement is terminated.

14 (l) In the event that a party to a prescriptive authority
15 agreement is notified that the individual has become the subject of
16 an investigation by the board~~[, the Texas Board of Nursing,]~~ or the
17 Texas Physician Assistant Board, the individual shall immediately
18 notify the other party to the prescriptive authority agreement.

19 (m) The prescriptive authority agreement and any amendments
20 must be reviewed at least annually, dated, and signed by the parties
21 to the agreement. The prescriptive authority agreement and any
22 amendments must be made available to the board~~[, the Texas Board of~~
23 ~~Nursing,]~~ or the Texas Physician Assistant Board not later than the
24 third business day after the date of receipt of request, if any.

25 (n) The prescriptive authority agreement should promote the
26 exercise of professional judgment by the ~~[advanced practice~~
27 ~~registered nurse or]~~ physician assistant commensurate with the

1 ~~[advanced practice registered nurse's or]~~ physician assistant's
2 education and experience and the relationship between the ~~[advanced~~
3 ~~practice registered nurse or]~~ physician assistant and the
4 physician.

5 (o) This section shall be liberally construed to allow the
6 use of prescriptive authority agreements to safely and effectively
7 utilize the skills and services of ~~[advanced practice registered~~
8 ~~nurses and]~~ physician assistants.

9 SECTION 2.005. Section 157.0513, Occupations Code, is
10 amended to read as follows:

11 Sec. 157.0513. PRESCRIPTIVE AUTHORITY AGREEMENT:
12 INFORMATION. (a) The board~~[, the Texas Board of Nursing,~~] and the
13 Texas Physician Assistant Board shall jointly develop a process:

14 (1) to exchange information regarding the names,
15 locations, and license numbers of each physician~~[, advanced~~
16 ~~practice registered nurse,~~] and physician assistant who has entered
17 into a prescriptive authority agreement;

18 (2) by which each board shall immediately notify the
19 other board ~~[boards]~~ when a license holder of the board becomes the
20 subject of an investigation involving the delegation and
21 supervision of prescriptive authority, as well as the final
22 disposition of any such investigation; and

23 (3) by which each board shall maintain and share a list
24 of the board's license holders who have been subject to a final
25 adverse disciplinary action for an act involving the delegation and
26 supervision of prescriptive authority.

27 (b) If the board~~[, the Texas Board of Nursing,~~] or the Texas

1 Physician Assistant Board receives a notice under Subsection
2 (a)(2), the board that received notice may open an investigation
3 against a license holder of the board who is a party to a
4 prescriptive authority agreement with the license holder who is
5 under investigation by the board that provided notice under
6 Subsection (a)(2).

7 (c) The board shall maintain and make available to the
8 public a searchable online list of physicians~~[, advanced practice~~
9 ~~registered nurses,~~] and physician assistants who have entered into
10 a prescriptive authority agreement authorized under Section
11 157.0512 and identify the physician~~[, advanced practice registered~~
12 ~~nurse, or physician assistant]~~ with whom each ~~[physician, advanced~~
13 ~~practice registered nurse, and]~~ physician assistant has entered
14 into a prescriptive authority agreement.

15 (d) The board shall collaborate with the ~~[Texas Board of~~
16 ~~Nursing and the]~~ Texas Physician Assistant Board to maintain and
17 make available to the public a list of physicians~~[, advanced~~
18 ~~practice registered nurses,~~] and physician assistants who are
19 prohibited from entering into or practicing under a prescriptive
20 authority agreement.

21 SECTION 2.006. Sections 157.054(a), (a-1), (b), and (c),
22 Occupations Code, are amended to read as follows:

23 (a) One or more physicians licensed by the board may
24 delegate, to one or more physician assistants ~~[or advanced practice~~
25 ~~registered nurses]~~ acting under adequate physician supervision
26 whose practice is facility-based at a hospital or licensed
27 long-term care facility, the administration or provision of a drug

1 and the prescribing or ordering of a drug or device if each of the
2 delegating physicians is:

3 (1) the medical director or chief of medical staff of
4 the facility in which the physician assistant [~~or advanced practice~~
5 ~~registered nurse~~] practices;

6 (2) the chair of the facility's credentialing
7 committee;

8 (3) a department chair of a facility department in
9 which the physician assistant [~~or advanced practice registered~~
10 ~~nurse~~] practices; or

11 (4) a physician who consents to the request of the
12 medical director or chief of medical staff to delegate the
13 prescribing or ordering of a drug or device at the facility in which
14 the physician assistant [~~or advanced practice registered nurse~~]
15 practices.

16 (a-1) The limits on the number of [~~advanced practice~~
17 ~~registered nurses or~~] physician assistants to whom a physician may
18 delegate under Section [157.0512](#) do not apply to a physician under
19 Subsection (a) whose practice is facility-based under this section,
20 provided that the physician is not delegating in a freestanding
21 clinic, center, or practice of the facility.

22 (b) A physician's authority to delegate under Subsection
23 (a) is limited as follows:

24 (1) the delegation must be made under a physician's
25 order, standing medical order, standing delegation order, or
26 another order or protocol developed in accordance with policies
27 approved by the facility's medical staff or a committee of the

1 facility's medical staff as provided by the facility bylaws;

2 (2) the delegation must occur in the facility in which
3 the physician is the medical director, the chief of medical staff,
4 the chair of the credentialing committee, a department chair, or a
5 physician who consents to delegate under Subsection (a)(4);

6 (3) the delegation may not permit the prescribing or
7 ordering of a drug or device for the care or treatment of the
8 patients of any other physician without the prior consent of that
9 physician; and

10 (4) delegation in a long-term care facility must be by
11 the medical director and is limited to the prescribing or ordering
12 of a drug or device to not more than seven ~~[advanced practice~~
13 ~~registered nurses or]~~ physician assistants or their full-time
14 equivalents.

15 (c) Physician supervision of the prescribing or ordering of
16 a drug or device must conform to what a reasonable, prudent
17 physician would find consistent with sound medical judgment but may
18 vary with the education and experience of the particular ~~[advanced~~
19 ~~practice registered nurse or]~~ physician assistant. A physician
20 shall provide continuous supervision, but the constant physical
21 presence of the physician is not required.

22 SECTION 2.007. Section 157.055, Occupations Code, is
23 amended to read as follows:

24 Sec. 157.055. ORDERS AND PROTOCOLS. A protocol or other
25 order shall be defined in a manner that promotes the exercise of
26 professional judgment by the ~~[advanced practice registered nurse~~
27 ~~and]~~ physician assistant commensurate with the education and

1 experience of that person. Under this section, an order or
2 protocol used by a reasonable and prudent physician exercising
3 sound medical judgment:

4 (1) is not required to describe the exact steps that
5 ~~[an advanced practice registered nurse or]~~ a physician assistant
6 must take with respect to each specific condition, disease, or
7 symptom; and

8 (2) may state the types or categories of medications
9 that may be prescribed or the types or categories of medications
10 that may not be prescribed.

11 SECTION 2.008. Section 157.056, Occupations Code, is
12 amended to read as follows:

13 Sec. 157.056. PRESCRIPTION INFORMATION. The following
14 information must be provided on each prescription subject to this
15 subchapter:

16 (1) the patient's name and address;
17 (2) the drug to be dispensed;
18 (3) directions to the patient regarding the taking of
19 the drug and the dosage;

20 (4) the intended use of the drug, if appropriate;
21 (5) the name, address, and telephone number of the
22 physician;

23 (6) the name, address, telephone number, and
24 identification number of the ~~[registered nurse or]~~ physician
25 assistant completing or signing the prescription drug order;

26 (7) the date; and
27 (8) the number of refills permitted.

SECTION 2.009. Section 157.060, Occupations Code, is amended to read as follows:

Sec. 157.060. PHYSICIAN LIABILITY FOR DELEGATED ACT. Unless the physician has reason to believe the physician assistant ~~[or advanced practice registered nurse]~~ lacked the competency to perform the act, a physician is not liable for an act of a physician assistant ~~[or advanced practice registered nurse]~~ solely because the physician signed a standing medical order, a standing delegation order, or another order or protocol, or entered into a prescriptive authority agreement, authorizing the physician assistant ~~[or advanced practice registered nurse]~~ to administer, provide, prescribe, or order a drug or device.

ARTICLE 3. GENERAL CONFORMING AMENDMENTS

SECTION 3.001. Section 38.151(1), Education Code, is amended to read as follows:

(1) "Advanced practice nurse" has the meaning assigned to "advanced practice registered nurse" by Section 301.357 ~~[301.152]~~, Occupations Code.

SECTION 3.002. Section 61.601, Education Code, is amended to read as follows:

Sec. 61.601. DEFINITION. In this subchapter, "mental health professional" means:

(1) a licensed physician who is:

(A) a graduate of an accredited psychiatric residency training program; or

(B) certified in psychiatry by:

(i) the American Board of Psychiatry and

1 Neurology; or

2 (ii) the American Osteopathic Board of
3 Neurology and Psychiatry;

4 (2) a psychologist, as defined by Section 501.002,
5 Occupations Code;

6 (3) a licensed professional counselor, as defined by
7 Section 503.002, Occupations Code;

8 (4) an advanced practice registered nurse, as defined
9 by Section 301.357 [~~301.152~~], Occupations Code, who holds a
10 nationally recognized board certification in psychiatric or mental
11 health nursing; and

12 (5) a licensed clinical social worker, as defined by
13 Section 505.002, Occupations Code.

14 SECTION 3.003. Section 671.001(b), Government Code, is
15 amended to read as follows:

16 (b) The pilot program must provide for the following:

17 (1) a licensed advanced practice registered nurse as
18 defined by Section 301.357 [~~301.152~~], Occupations Code, or a
19 licensed physician assistant as described by Chapter 204,
20 Occupations Code, who is employed by the state or whose services are
21 acquired by contract, who will be located at a state office complex;

22 (2) if applicable, a licensed physician, who is
23 employed by a state governmental entity for purposes other than the
24 pilot program or whose services are acquired by contract, who will
25 delegate to and supervise the [~~advanced practice registered nurse~~
26 ~~or~~] physician assistant under a prescriptive authority agreement
27 under Chapter 157, Occupations Code;

1 (3) appropriate office space and equipment for the
2 advanced practice registered nurse or physician assistant to
3 provide basic medical care to employees at the state office complex
4 where the nurse or physician assistant is located; and

5 (4) professional liability insurance covering
6 services provided by the advanced practice registered nurse or the
7 physician assistant.

8 SECTION 3.004. Section 47.011(a), Health and Safety Code,
9 is amended to read as follows:

10 (a) In this section, "midwife" has the meaning assigned by
11 Section 203.002, Occupations Code, and includes a nurse midwife
12 described by Section 301.357 [~~301.152~~], Occupations Code.

13 SECTION 3.005. Section 481.002(39), Health and Safety Code,
14 is amended to read as follows:

15 (39) "Practitioner" means:

16 (A) a physician, dentist, veterinarian,
17 podiatrist, scientific investigator, advanced practice registered
18 nurse, or other person licensed, registered, or otherwise permitted
19 to distribute, dispense, analyze, conduct research with respect to,
20 or administer a controlled substance in the course of professional
21 practice or research in this state;

22 (B) a pharmacy, hospital, or other institution
23 licensed, registered, or otherwise permitted to distribute,
24 dispense, conduct research with respect to, or administer a
25 controlled substance in the course of professional practice or
26 research in this state;

27 (C) a person practicing in and licensed by

another state as a physician, dentist, veterinarian, advanced practice registered nurse, or podiatrist, having a current Federal Drug Enforcement Administration registration number, who may legally prescribe Schedule II, III, IV, or V controlled substances in that state; or

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

SECTION 3.006. Section 481.073(a), Health and Safety Code, is amended to read as follows:

(a) Only a practitioner defined by Section 481.002(39)(A) and an agent designated in writing by the practitioner in accordance with rules adopted by the board may communicate a prescription by telephone. A pharmacy that receives a telephonically communicated prescription shall promptly write the prescription and file and retain the prescription in the manner required by this subchapter. A practitioner who designates an agent to communicate prescriptions shall maintain the written designation of the agent in the practitioner's usual place of business and shall make the designation available for inspection by investigators for the Texas Medical Board, the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, the Texas Board of Nursing, the board, and the department. A practitioner who designates a different agent shall designate that agent in writing and maintain the designation in the same manner in which the practitioner initially designated an agent under this

1 section.

2 SECTION 3.007. Section 481.074(d), Health and Safety Code,
3 is amended to read as follows:

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

11 SECTION 3.008. Section 481.076(c), Health and Safety Code,
12 is amended to read as follows:

13 (c) The board by rule shall design and implement a system
14 for submission of information to the board by electronic or other
15 means and for retrieval of information submitted to the board under
16 this section and Sections 481.074 and 481.075. The board shall use
17 automated information security techniques and devices to preclude
18 improper access to the information. The board shall submit the
19 system design to the director, ~~and~~ the Texas Medical Board, and
20 the Texas Board of Nursing for review and comment a reasonable time
21 before implementation of the system and shall comply with the
22 comments of those agencies unless it is unreasonable to do so.

23 SECTION 3.009. Sections 483.001(4), (12), and (13), Health
24 and Safety Code, are amended to read as follows:

25 (4) "Designated agent" means:

26 (A) a licensed nurse, physician assistant,
27 pharmacist, or other individual designated by a practitioner to

1 communicate prescription drug orders to a pharmacist;

2 (B) a licensed nurse, physician assistant, or
3 pharmacist employed in a health care facility to whom the
4 practitioner communicates a prescription drug order; or

5 (C) a ~~[registered nurse or]~~ physician assistant
6 authorized by a practitioner to carry out a prescription drug order
7 for dangerous drugs under Subchapter B, Chapter 157, Occupations
8 Code, or an advanced practice registered nurse authorized by a
9 practitioner to carry out a prescription drug order for dangerous
10 drugs.

11 (12) "Practitioner" means:

12 (A) a person licensed by the Texas Medical Board,
13 State Board of Dental Examiners, Texas State Board of Podiatric
14 Medical Examiners, Texas Optometry Board, Texas Board of Nursing,
15 or State Board of Veterinary Medical Examiners to prescribe and
16 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) a ~~[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 (13) "Prescription" means an order from a

1 practitioner, or an agent of the practitioner designated in writing
2 as authorized to communicate prescriptions, or an order made in
3 accordance with Subchapter B, Chapter 157, Occupations Code, or
4 Section 203.353, Occupations Code, to a pharmacist for a dangerous
5 drug to be dispensed that states:

6 (A) the date of the order's issue;

7 (B) the name and address of the patient;

8 (C) if the drug is prescribed for an animal, the
9 species of the animal;

10 (D) the name and quantity of the drug prescribed;

11 (E) the directions for the use of the drug;

12 (F) the intended use of the drug unless the
13 practitioner determines the furnishing of this information is not
14 in the best interest of the patient;

15 (G) the name, address, and telephone number of
16 the practitioner at the practitioner's usual place of business,
17 legibly printed or stamped; and

18 (H) the name, address, and telephone number of
19 the licensed midwife[~~registered nurse~~] or physician assistant,
20 legibly printed or stamped, if signed by a licensed midwife[~~registered nurse~~]
21 ~~registered nurse~~] or physician assistant.

22 SECTION 3.010. Section 483.022(f), Health and Safety Code,
23 is amended to read as follows:

24 (f) A practitioner may designate a person who is a licensed
25 vocational nurse or has an education equivalent to or greater than
26 that required for a licensed vocational nurse to communicate
27 prescriptions of a [~~an advanced practice nurse or~~] physician

1 assistant authorized by the practitioner to sign prescription drug
2 orders under Subchapter B, Chapter 157, Occupations Code, or of an
3 advanced practice registered nurse.

4 SECTION 3.011. Section 483.042(a), Health and Safety Code,
5 is amended to read as follows:

6 (a) A person commits an offense if the person delivers or
7 offers to deliver a dangerous drug:

8 (1) unless:

9 (A) the dangerous drug is delivered or offered
10 for delivery by a pharmacist under:

11 (i) a prescription issued by a practitioner
12 described by Section 483.001(12)(A) or (B);

13 (ii) a prescription signed by a ~~[registered~~
14 ~~nurse or]~~ physician assistant in accordance with Subchapter B,
15 Chapter 157, Occupations Code; or

16 (iii) an original written prescription
17 issued by a practitioner described by Section 483.001(12)(C); and

18 (B) a label is attached to the immediate
19 container in which the drug is delivered or offered to be delivered
20 and the label contains the following information:

21 (i) the name and address of the pharmacy
22 from which the drug is delivered or offered for delivery;

23 (ii) the date the prescription for the drug
24 is dispensed;

25 (iii) the number of the prescription as
26 filed in the prescription files of the pharmacy from which the
27 prescription is dispensed;

(iv) the name of the practitioner who prescribed the drug and, if applicable, the name of the ~~[registered nurse or]~~ physician assistant who signed the prescription;

(v) the name of the patient and, if the drug is prescribed for an animal, a statement of the species of the animal; and

(vi) directions for the use of the drug as contained in the prescription; or

(2) unless:

(A) the dangerous drug is delivered or offered for delivery by:

(i) a practitioner in the course of practice; or

(ii) a ~~[registered nurse or]~~ physician assistant in the course of practice in accordance with Subchapter B, Chapter 157, Occupations Code; and

(B) a label is attached to the immediate container in which the drug is delivered or offered to be delivered and the label contains the following information:

(i) the name and address of the practitioner who prescribed the drug, and if applicable, the name and address of the ~~[registered nurse or]~~ physician assistant;

(ii) the date the drug is delivered;

(iii) the name of the patient and, if the drug is prescribed for an animal, a statement of the species of the animal; and

(iv) the name of the drug, the strength of

the drug, and directions for the use of the drug.

SECTION 3.012. Section 32.03141, Human Resources Code, is amended to read as follows:

Sec. 32.03141. AUTHORITY OF ADVANCED PRACTICE REGISTERED NURSES AND PHYSICIAN ASSISTANTS REGARDING DURABLE MEDICAL EQUIPMENT AND SUPPLIES. To the extent allowed by federal law, in addition to other health care practitioners authorized by federal law, the following persons may order and prescribe durable medical equipment and supplies under the medical assistance program:

(1) an advanced practice registered nurse; and

(2) a ~~[or]~~ physician assistant acting under adequate physician supervision and to whom a physician has delegated the authority to prescribe and order drugs and devices under Chapter 157, Occupations Code~~[, may order and prescribe durable medical equipment and supplies under the medical assistance program]~~.

SECTION 3.013. Section 843.312, Insurance Code, is amended to read as follows:

Sec. 843.312. PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE REGISTERED NURSES. (a) A health maintenance organization may not refuse a request by a physician participating in the health maintenance organization delivery network and a physician assistant ~~[or advanced practice nurse]~~ who is authorized by the physician to provide care under Subchapter B, Chapter 157, Occupations Code, or an advanced practice registered nurse who is authorized to provide care under Section 301.357, Occupations Code, to identify a physician assistant or advanced practice registered nurse as a provider in the network.

(b) A health maintenance organization may refuse a request under Subsection (a) if the physician assistant or advanced practice registered nurse does not meet the quality of care standards previously established by the health maintenance organization for participation in the network by physician assistants and advanced practice registered nurses.

SECTION 3.014. Section 1301.001(1-a), Insurance Code, is amended to read as follows:

(1-a) "Health care provider" means a practitioner, institutional provider, or other person or organization that furnishes health care services and that is licensed or otherwise authorized to practice in this state. The term includes a pharmacist, ~~and~~ a pharmacy, and an advanced practice registered nurse. The term does not include a physician.

SECTION 3.015. Section 1301.052, Insurance Code, is amended to read as follows:

Sec. 1301.052. DESIGNATION OF ADVANCED PRACTICE REGISTERED NURSE OR PHYSICIAN ASSISTANT AS PREFERRED PROVIDER. An insurer offering a preferred provider benefit plan may not refuse a request made by a physician participating as a preferred provider under the plan and an advanced practice registered nurse or physician assistant to have the advanced practice registered nurse or physician assistant included as a preferred provider under the plan if:

(1) the ~~[advanced practice nurse or]~~ physician assistant is authorized by the physician to provide care under Subchapter B, Chapter 157, Occupations Code, or the advanced

1 practice registered nurse is authorized to provide care under
2 Section 301.357, Occupations Code; and

3 (2) the advanced practice registered nurse or
4 physician assistant meets the quality of care standards previously
5 established by the insurer for participation in the plan by
6 advanced practice registered nurses and physician assistants.

7 SECTION 3.016. Section 1451.001(2), Insurance Code, is
8 amended to read as follows:

9 (2) "Advanced practice registered nurse" means an
10 individual licensed by the Texas Board of Nursing as a registered
11 nurse and licensed [~~recognized~~] by that board as an advanced
12 practice registered nurse.

13 SECTION 3.017. Section 1451.104(c), Insurance Code, is
14 amended to read as follows:

15 (c) Notwithstanding Subsection (a), a health insurance
16 policy may provide for a different amount of payment or
17 reimbursement for scheduled services or procedures performed by an
18 advanced practice registered nurse, nurse first assistant,
19 licensed surgical assistant, or physician assistant if the
20 methodology used to compute the amount is the same as the
21 methodology used to compute the amount of payment or reimbursement
22 when the services or procedures are provided by a physician.

23 SECTION 3.018. Section 1451.106, Insurance Code, is amended
24 to read as follows:

25 Sec. 1451.106. SELECTION OF ADVANCED PRACTICE REGISTERED
26 NURSE. An insured may select an advanced practice registered nurse
27 to provide the services scheduled in the health insurance policy

that are within the scope of the nurse's license.

SECTION 3.019. Section 1452.051(1), Insurance Code, is amended to read as follows:

(1) "Advanced practice nurse" has the meaning assigned to "advanced practice registered nurse" by Section 301.357 [~~301.152~~], Occupations Code.

SECTION 3.020. Section 204.1025, Occupations Code, is amended to read as follows:

Sec. 204.1025. DUTIES REGARDING PRESCRIPTIVE AUTHORITY AGREEMENTS. The physician assistant board shall in conjunction with the Texas Medical Board [~~and the Texas Board of Nursing~~] perform the functions and duties relating to prescriptive authority agreements assigned to the physician assistant board in Sections 157.0512 and 157.0513.

SECTION 3.021. Sections 551.003(14) and (34), Occupations Code, are amended to read as follows:

(14) "Designated agent" means:

(A) an individual, including a licensed nurse, physician assistant, or pharmacist:

(i) who is designated by a practitioner and authorized to communicate a prescription drug order to a pharmacist; and

(ii) for whom the practitioner assumes legal responsibility;

(B) a licensed nurse, physician assistant, or pharmacist employed in a health care facility to whom a practitioner communicates a prescription drug order; or

1 (C) a [~~registered nurse or~~] physician assistant
2 authorized by a practitioner to administer a prescription drug
3 order for a dangerous drug under Subchapter B, Chapter 157, or an
4 advanced practice registered nurse authorized by a practitioner to
5 administer a prescription drug order for a dangerous drug.

6 (34) "Practitioner" means:

7 (A) a person licensed or registered to prescribe,
8 distribute, administer, or dispense a prescription drug or device
9 in the course of professional practice in this state, including a
10 physician, dentist, podiatrist, advanced practice registered
11 nurse, or veterinarian but excluding a person licensed under this
12 subtitle;

13 (B) a person licensed by another state, Canada,
14 or the United Mexican States in a health field in which, under the
15 law of this state, a license holder in this state may legally
16 prescribe a dangerous drug;

17 (C) a person practicing in another state and
18 licensed by another state as a physician, dentist, veterinarian,
19 advanced practice registered nurse, or podiatrist, who has a
20 current federal Drug Enforcement Administration registration
21 number and who may legally prescribe a Schedule II, III, IV, or V
22 controlled substance, as specified under Chapter 481, Health and
23 Safety Code, in that other state; or

24 (D) a [~~an advanced practice registered nurse or~~]
25 physician assistant to whom a physician has delegated the authority
26 to prescribe or order a drug or device under Section 157.0511,
27 157.0512, or 157.054.

SECTION 3.022. Section 563.051(e), Occupations Code, is amended to read as follows:

(e) A practitioner may designate a licensed vocational nurse or a person having education equivalent to or greater than that required for a licensed vocational nurse to communicate the prescriptions of a ~~[an advanced practice nurse or]~~ physician assistant authorized by the practitioner to sign prescription drug orders under Subchapter B, Chapter 157, or of an advanced practice registered nurse.

SECTION 3.023. Section 563.053, Occupations Code, is amended to read as follows:

Sec. 563.053. DISPENSING OF DANGEROUS DRUGS IN CERTAIN RURAL AREAS. (a) In this section, "reimbursement for cost" means an additional charge, separate from that imposed for the physician's or advanced practice registered nurse's professional services, that includes the cost of the drug product and all other actual costs to the physician or advanced practice registered nurse incidental to providing the dispensing service. The term does not include a separate fee imposed for the act of dispensing the drug itself.

(b) This section applies to an area located in a county with a population of 5,000 or less, or in a municipality or an unincorporated town with a population of less than 2,500, that is within a 15-mile radius of the physician's or advanced practice registered nurse's office and in which a pharmacy is not located. This section does not apply to a municipality or an unincorporated town that is adjacent to a municipality with a population of 2,500

1 or more.

2 (c) A physician who practices medicine or an advanced
3 practice registered nurse who practices advanced practice
4 registered nursing in an area described by Subsection (b) may:

5 (1) maintain a supply of dangerous drugs in the
6 physician's or advanced practice registered nurse's office to be
7 dispensed in the course of treating the physician's or advanced
8 practice registered nurse's patients; and

9 (2) be reimbursed for the cost of supplying those
10 drugs without obtaining a license under Chapter 558.

11 (d) A physician or advanced practice registered nurse who
12 dispenses dangerous drugs under Subsection (c) shall:

13 (1) comply with each labeling provision under this
14 subtitle applicable to that class of drugs; and

15 (2) oversee compliance with packaging and
16 recordkeeping provisions applicable to that class of drugs.

17 (e) A physician who desires to dispense dangerous drugs
18 under this section shall notify both the board and the Texas Medical
19 ~~[State] Board [of Medical Examiners]~~ that the physician practices
20 in an area described by Subsection (b). An advanced practice
21 registered nurse who desires to dispense dangerous drugs under this
22 section shall notify both the board and the Texas Board of Nursing
23 that the advanced practice registered nurse practices in an area
24 described by Subsection (b). The physician or advanced practice
25 registered nurse may continue to dispense dangerous drugs in the
26 area until the board determines, after notice and hearing, that the
27 physician or advanced practice registered nurse no longer practices

1 in an area described by Subsection (b).

2 SECTION 3.024. Section 605.002(14), Occupations Code, is
3 amended to read as follows:

4 (14) "Orthotics" means the science and practice of
5 measuring, designing, fabricating, assembling, fitting, adjusting,
6 or servicing an orthosis under an order from a licensed physician,
7 chiropractor, ~~[or]~~ podiatrist, or ~~[an]~~ advanced practice
8 registered nurse, or from a physician assistant acting under the
9 delegation and supervision of a licensed physician as provided by
10 Subchapter B, Chapter 157, and rules adopted by the Texas Medical
11 Board, for the correction or alleviation of a neuromuscular or
12 musculoskeletal dysfunction, disease, injury, or deformity.

13 SECTION 3.025. Section 605.2515, Occupations Code, is
14 amended to read as follows:

15 Sec. 605.2515. ADDITIONAL LICENSE: DEVICE MANUFACTURER. A
16 person licensed to practice orthotics or prosthetics who measures,
17 designs, fabricates, fits, assembles, adjusts, or services an
18 orthosis or a prosthesis under an order from a licensed physician,
19 chiropractor, ~~[or]~~ podiatrist, or ~~[an]~~ advanced practice
20 registered nurse, or from a physician assistant acting under the
21 delegation and supervision of a licensed physician as provided by
22 Subchapter B, Chapter 157, and rules adopted by the Texas Medical
23 Board, for a specific patient is exempt from licensing as a device
24 manufacturer under Subchapter L, Chapter 431, Health and Safety
25 Code. A person licensed to practice orthotics or prosthetics who
26 fabricates or assembles an orthosis or a prosthesis without an
27 order from a licensed physician, chiropractor, ~~[or]~~ podiatrist, or

1 ~~an~~ advanced practice registered nurse, or from a physician
2 assistant acting under the delegation and supervision of a licensed
3 physician as provided by Subchapter B, Chapter 157, and rules
4 adopted by the Texas Medical Board, for a specific patient is
5 required to be licensed as a device manufacturer under Subchapter
6 L, Chapter 431, Health and Safety Code.

7 ARTICLE 4. REPEALER

8 SECTION 4.001. Section 301.168, Occupations Code, is
9 repealed.

10 ARTICLE 5. TRANSITION AND EFFECTIVE DATE

11 SECTION 5.001. Not later than February 1, 2018, the Texas
12 Board of Nursing shall adopt the rules necessary to implement the
13 changes in law made by this Act.

14 SECTION 5.002. Notwithstanding any changes in law made by
15 this Act, an advanced practice registered nurse who has been
16 delegated the authority to prescribe and order drugs and medical
17 devices by a physician's protocol or order under Section 157.0511,
18 157.0512, or 157.054, Occupations Code, may continue to exercise
19 that authority until February 1, 2018.

20 SECTION 5.003. This Act takes effect September 1, 2017.