

By: Blanco

H.B. No. 1804

A BILL TO BE ENTITLED

AN ACT

relating to the prescribing and ordering authority of certain advanced practice registered nurses who are military veterans.

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

ARTICLE 1. PRESCRIPTIVE AUTHORITY FOR CERTAIN ADVANCED PRACTICE REGISTERED NURSES WHO ARE MILITARY VETERANS

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. 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 requesting, receiving, signing for, and
8 distribution of prescription drug samples to patients at practices
9 at which an advanced practice registered nurse is authorized to
10 sign prescription drug orders as provided by Subchapter B, Chapter
11 157, or Section 301.357;

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

15 (H) the development of the nursing care plan; and

16 (I) the prescribing and ordering of drugs and
17 devices by an advanced practice registered nurse as authorized by
18 the board under Section 301.357.

19 (6) "Controlled substance" has the meaning assigned by
20 Section 157.051.

21 (7) "Dangerous drug" has the meaning assigned by
22 Section 157.051.

23 (8) "Device" has the meaning assigned by Section
24 157.051.

25 (9) "Nonprescription drug" has the meaning assigned by
26 Section 157.051.

27 (10) "Prescribe or order a drug or device" has the

1 meaning assigned by Section 157.051.

2 SECTION 1.002. Section 301.152(b), Occupations Code, is
3 amended to read as follows:

4 (b) The board shall adopt rules to:

5 (1) license a registered nurse as an advanced practice
6 registered nurse;

7 (2) establish:

8 (A) any specialized education or training,
9 including pharmacology, that an advanced practice registered nurse
10 must have to prescribe or order a drug or device as delegated by a
11 physician under Section 157.0512 or 157.054 or as authorized by the
12 board under Section 301.357;

13 (B) a system for approving an advanced practice
14 registered nurse to prescribe or order a drug or device as delegated
15 by a physician under Section 157.0512 or 157.054 or as authorized by
16 the board under Section 301.357 on the receipt of evidence of
17 completing the specialized education and training requirement
18 under Paragraph (A); and

19 (C) a system for issuing a prescription
20 authorization number to an advanced practice registered nurse
21 approved under Paragraph (B); and

22 (3) concurrently renew any license or approval granted
23 to an advanced practice registered nurse under this subsection and
24 a license renewed by the advanced practice registered nurse under
25 Section 301.301.

26 SECTION 1.003. Subchapter H, Chapter 301, Occupations Code,
27 is amended by adding Section 301.357 to read as follows:

1 Sec. 301.357. PRESCRIBING AND ORDERING AUTHORITY OF CERTAIN
2 ADVANCED PRACTICE REGISTERED NURSES. (a) In this section, "active
3 duty" and "military veteran" have the meanings assigned by Section
4 55.001.

5 (b) The board may authorize an advanced practice registered
6 nurse to prescribe and order drugs and devices, including
7 controlled substances listed in Schedules III, IV, and V, dangerous
8 drugs, and nonprescription drugs, if the advanced practice
9 registered nurse:

10 (1) is a military veteran;

11 (2) practiced as an advanced practice registered nurse
12 while on active duty; and

13 (3) has been issued a prescription authorization
14 number under Section 301.152(b).

15 (c) The board may authorize an advanced practice registered
16 nurse described by Subsection (b) to prescribe and order controlled
17 substances listed in Schedule II only:

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

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

26 (B) is receiving services in the emergency
27 department of the hospital; or

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

5 ARTICLE 2. CONFORMING AMENDMENTS

6 SECTION 2.001. Section 38.151(1), Education Code, is
7 amended to read as follows:

8 (1) "Advanced practice nurse" has the meaning assigned
9 to "advanced practice registered nurse" by Section 301.152,
10 Occupations Code.

11 SECTION 2.002. Section 671.001(b), Government Code, is
12 amended to read as follows:

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

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

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

25 (3) appropriate office space and equipment for the
26 advanced practice registered nurse or physician assistant to
27 provide basic medical care to employees at the state office complex

1 where the nurse or physician assistant is located; and

2 (4) professional liability insurance covering
3 services provided by the advanced practice registered nurse or the
4 physician assistant.

5 SECTION 2.003. Section 481.002(39), Health and Safety Code,
6 is amended to read as follows:

7 (39) "Practitioner" means:

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

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

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

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

1 157.0512, or 157.054, Occupations Code.

2 SECTION 2.004. Section 481.073(a), Health and Safety Code,
3 is amended to read as follows:

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

21 SECTION 2.005. Section 481.074(d), Health and Safety Code,
22 is amended to read as follows:

23 (d) Except as specified in Subsections (e) and (f), the
24 board, by rule and in consultation with the Texas Medical Board and
25 the Texas Board of Nursing, shall establish the period after the
26 date on which the prescription is issued that a person may fill a
27 prescription for a controlled substance listed in Schedule II. A

1 person may not refill a prescription for a substance listed in
2 Schedule II.

3 SECTION 2.006. Section 481.076(c), Health and Safety Code,
4 is amended to read as follows:

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

15 SECTION 2.007. Sections 483.001(4) and (12), Health and
16 Safety Code, are amended to read as follows:

17 (4) "Designated agent" means:

18 (A) a licensed nurse, physician assistant,
19 pharmacist, or other individual designated by a practitioner to
20 communicate prescription drug orders to a pharmacist;

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

24 (C) ~~a~~ an advanced practice registered nurse or
25 physician assistant authorized by a practitioner to carry out a
26 prescription drug order for dangerous drugs under Subchapter B,
27 Chapter 157, Occupations Code, or an advanced practice registered

1 nurse authorized by a practitioner to carry out a prescription drug
2 order for dangerous drugs under other law.

3 (12) "Practitioner" means:

4 (A) a person licensed by the Texas Medical Board,
5 State Board of Dental Examiners, Texas State Board of Podiatric
6 Medical Examiners, Texas Optometry Board, Texas Board of Nursing,
7 or State Board of Veterinary Medical Examiners to prescribe and
8 administer dangerous drugs;

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

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

15 (D) an advanced practice registered nurse or
16 physician assistant to whom a physician has delegated the authority
17 to prescribe or order a drug or device under Section [157.0511](#),
18 [157.0512](#), or [157.054](#), Occupations Code.

19 SECTION 2.008. Section [32.03141](#), Human Resources Code, is
20 amended to read as follows:

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

27 (1) an advanced practice registered nurse authorized

1 to prescribe and order drugs and devices under Section 301.357,
2 Occupations Code; and

3 (2) an advanced practice registered nurse or physician
4 assistant acting under adequate physician supervision and to whom a
5 physician has delegated the authority to prescribe and order drugs
6 and devices under Chapter 157, Occupations Code [~~, may order and~~
7 ~~prescribe durable medical equipment and supplies under the medical~~
8 ~~assistance program~~].

9 SECTION 2.009. Section 843.312, Insurance Code, is amended
10 to read as follows:

11 Sec. 843.312. PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
12 REGISTERED NURSES. (a) A health maintenance organization may not
13 refuse a request by a physician participating in the health
14 maintenance organization delivery network and a physician
15 assistant or advanced practice registered nurse who is authorized
16 by the physician to provide care under Subchapter B, Chapter 157,
17 Occupations Code, or an advanced practice registered nurse who is
18 authorized to provide care by the physician under other law, to
19 identify a physician assistant or advanced practice registered
20 nurse as a provider in the network.

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

27 SECTION 2.010. Section 1301.001(1-a), Insurance Code, is

1 amended to read as follows:

2 (1-a) "Health care provider" means a practitioner,
3 institutional provider, or other person or organization that
4 furnishes health care services and that is licensed or otherwise
5 authorized to practice in this state. The term includes a
6 pharmacist, ~~and~~ a pharmacy, and an advanced practice registered
7 nurse. The term does not include a physician.

8 SECTION 2.011. Section [1301.052](#), Insurance Code, is amended
9 to read as follows:

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

18 (1) the advanced practice registered nurse or
19 physician assistant is authorized by the physician to provide care
20 under Subchapter B, Chapter [157](#), Occupations Code, or the advanced
21 practice registered nurse is authorized to provide care by the
22 physician under other law; and

23 (2) the advanced practice registered nurse or
24 physician assistant meets the quality of care standards previously
25 established by the insurer for participation in the plan by
26 advanced practice registered nurses and physician assistants.

27 SECTION 2.012. Section [1451.001\(2\)](#), Insurance Code, is

1 amended to read as follows:

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

6 SECTION 2.013. Section [1451.104](#)(c), Insurance Code, is
7 amended to read as follows:

8 (c) Notwithstanding Subsection (a), a health insurance
9 policy may provide for a different amount of payment or
10 reimbursement for scheduled services or procedures performed by an
11 advanced practice registered nurse, nurse first assistant,
12 licensed surgical assistant, or physician assistant if the
13 methodology used to compute the amount is the same as the
14 methodology used to compute the amount of payment or reimbursement
15 when the services or procedures are provided by a physician.

16 SECTION 2.014. Section [1451.106](#), Insurance Code, is amended
17 to read as follows:

18 Sec. 1451.106. SELECTION OF ADVANCED PRACTICE REGISTERED
19 NURSE. An insured may select an advanced practice registered nurse
20 to provide the services scheduled in the health insurance policy
21 that are within the scope of the nurse's license.

22 SECTION 2.015. Section [1452.051](#)(1), Insurance Code, is
23 amended to read as follows:

24 (1) "Advanced practice nurse" has the meaning assigned
25 to "advanced practice registered nurse" by Section [301.152](#),
26 Occupations Code.

27 SECTION 2.016. Sections [551.003](#)(14) and (34), Occupations

1 Code, are amended to read as follows:

2 (14) "Designated agent" means:

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

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

8 (ii) for whom the practitioner assumes
9 legal responsibility;

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

13 (C) a registered nurse or physician assistant
14 authorized by a practitioner to administer a prescription drug
15 order for a dangerous drug under Subchapter B, Chapter 157, or an
16 advanced practice registered nurse authorized by a practitioner to
17 administer a prescription drug order for a dangerous drug under
18 other law.

19 (34) "Practitioner" means:

20 (A) a person licensed or registered to prescribe,
21 distribute, administer, or dispense a prescription drug or device
22 in the course of professional practice in this state, including a
23 physician, dentist, podiatrist, advanced practice registered
24 nurse, or veterinarian but excluding a person licensed under this
25 subtitle;

26 (B) a person licensed by another state, Canada,
27 or the United Mexican States in a health field in which, under the

1 law of this state, a license holder in this state may legally
2 prescribe a dangerous drug;

3 (C) a person practicing in another state and
4 licensed by another state as a physician, dentist, veterinarian,
5 advanced practice registered nurse, or podiatrist, who has a
6 current federal Drug Enforcement Administration registration
7 number and who may legally prescribe a Schedule II, III, IV, or V
8 controlled substance, as specified under Chapter 481, Health and
9 Safety Code, in that other state; or

10 (D) an advanced practice registered nurse or
11 physician assistant to whom a physician has delegated the authority
12 to prescribe or order a drug or device under Section 157.0511,
13 157.0512, or 157.054.

14 SECTION 2.017. Section 563.053, Occupations Code, is
15 amended to read as follows:

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

25 (b) This section applies to an area located in a county with
26 a population of 5,000 or less, or in a municipality or an
27 unincorporated town with a population of less than 2,500, that is

1 within a 15-mile radius of the physician's or advanced practice
2 registered nurse's office and in which a pharmacy is not located.
3 This section does not apply to a municipality or an unincorporated
4 town that is adjacent to a municipality with a population of 2,500
5 or more.

6 (c) A physician who practices medicine or an advanced
7 practice registered nurse who is authorized to prescribe and order
8 drugs and devices under Section 301.357 and who practices advanced
9 practice registered nursing in an area described by Subsection (b)
10 may:

11 (1) maintain a supply of dangerous drugs in the
12 physician's or advanced practice registered nurse's office to be
13 dispensed in the course of treating the physician's or advanced
14 practice registered nurse's patients; and

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

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

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

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

23 (e) A physician who desires to dispense dangerous drugs
24 under this section shall notify both the board and the Texas Medical
25 [~~State~~] Board [~~of Medical Examiners~~] that the physician practices
26 in an area described by Subsection (b). An advanced practice
27 registered nurse who desires to dispense dangerous drugs under this

1 section shall notify both the board and the Texas Board of Nursing
2 that the advanced practice registered nurse practices in an area
3 described by Subsection (b). The physician or advanced practice
4 registered nurse may continue to dispense dangerous drugs in the
5 area until the board determines, after notice and hearing, that the
6 physician or advanced practice registered nurse no longer practices
7 in an area described by Subsection (b).

8 SECTION 2.018. Section 605.002(14), Occupations Code, is
9 amended to read as follows:

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

20 SECTION 2.019. Section 605.2515, Occupations Code, is
21 amended to read as follows:

22 Sec. 605.2515. ADDITIONAL LICENSE: DEVICE MANUFACTURER. A
23 person licensed to practice orthotics or prosthetics who measures,
24 designs, fabricates, fits, assembles, adjusts, or services an
25 orthosis or a prosthesis under an order from a licensed physician,
26 chiropractor, ~~[or]~~ podiatrist, or ~~[an]~~ advanced practice
27 registered nurse, or from an advanced practice registered nurse or

1 physician assistant acting under the delegation and supervision of
2 a licensed physician as provided by Subchapter B, Chapter 157, and
3 rules adopted by the Texas Medical Board, for a specific patient is
4 exempt from licensing as a device manufacturer under Subchapter L,
5 Chapter 431, Health and Safety Code. A person licensed to practice
6 orthotics or prosthetics who fabricates or assembles an orthosis or
7 a prosthesis without an order from a licensed physician,
8 chiropractor, ~~or~~ podiatrist, or ~~an~~ advanced practice
9 registered nurse, or from an advanced practice registered nurse or
10 physician assistant acting under the delegation and supervision of
11 a licensed physician as provided by Subchapter B, Chapter 157, and
12 rules adopted by the Texas Medical Board, for a specific patient is
13 required to be licensed as a device manufacturer under Subchapter
14 L, Chapter 431, Health and Safety Code.

15 ARTICLE 3. TRANSITION AND EFFECTIVE DATE

16 SECTION 3.001. Not later than February 1, 2018, the Texas
17 Board of Nursing shall adopt the rules necessary to implement the
18 changes in law made by this Act.

19 SECTION 3.002. This Act takes effect September 1, 2017.