

By: Price

H.B. No. 3395

A BILL TO BE ENTITLED

AN ACT

relating to the authority of advanced practice registered nurses practicing in certain areas.

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

ARTICLE 1. INDEPENDENT PRACTICE AND PRESCRIPTIVE AUTHORITY FOR ADVANCED PRACTICE REGISTERED NURSES PRACTICING IN CERTAIN AREAS

SECTION 1.001. Section 301.002, Occupations Code, is amended by amending Subdivision (2) and adding Subdivisions (6) and (7) 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) "Prescribe or order a drug or device" has the  
22 meaning assigned by Section 157.051.

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

25 (b) The board shall adopt rules to:

26 (1) license a registered nurse as an advanced practice  
27 registered nurse;

1 (2) establish:

2 (A) any specialized education or training,  
3 including pharmacology, that an advanced practice registered nurse  
4 must have to prescribe or order a drug or device as delegated by a  
5 physician under Section 157.0512 or 157.054 or as authorized by the  
6 board under Section 301.357;

7 (B) a system for approving an advanced practice  
8 registered nurse to prescribe or order a drug or device as delegated  
9 by a physician under Section 157.0512 or 157.054 or as authorized by  
10 the board under Section 301.357 on the receipt of evidence of  
11 completing the specialized education and training requirement  
12 under Paragraph (A); and

13 (C) a system for issuing a prescription  
14 authorization number to an advanced practice registered nurse  
15 approved under Paragraph (B); and

16 (3) concurrently renew any license or approval granted  
17 to an advanced practice registered nurse under this subsection and  
18 a license renewed by the advanced practice registered nurse under  
19 Section 301.301.

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

22 Sec. 301.357. INDEPENDENT PRACTICE BY AND PRESCRIBING AND  
23 ORDERING AUTHORITY OF CERTAIN ADVANCED PRACTICE REGISTERED NURSES.

24 (a) An advanced practice registered nurse may practice as a  
25 licensed independent practitioner if the advanced practice  
26 registered nurse is practicing in a county:

27 (1) in which there are no practicing primary care

1 physicians; and

2 (2) that:

3 (A) has been designated as a medically  
4 underserved area under state or federal law; or

5 (B) contains a medically underserved population.

6 (b) The board may authorize an advanced practice registered  
7 nurse practicing in a county described by Subsection (a) to  
8 prescribe and order drugs and devices, excluding controlled  
9 substances, if the advanced practice registered nurse has been  
10 issued a prescription authorization number under Section  
11 301.152(b).

12 ARTICLE 2. CONFORMING AMENDMENTS

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

15 (1) "Advanced practice nurse" has the meaning assigned  
16 to "advanced practice registered nurse" by Section 301.152,  
17 Occupations Code.

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

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

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

26 (2) if applicable, a licensed physician, who is  
27 employed by a state governmental entity for purposes other than the

1 pilot program or whose services are acquired by contract, who will  
2 delegate to and supervise the advanced practice registered nurse or  
3 physician assistant under a prescriptive authority agreement under  
4 Chapter 157, Occupations Code;

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

9 (4) professional liability insurance covering  
10 services provided by the advanced practice registered nurse or the  
11 physician assistant.

12 SECTION 2.003. Sections 483.001(4) and (12), Health and  
13 Safety Code, are amended to read as follows:

14 (4) "Designated agent" means:

15 (A) a licensed nurse, physician assistant,  
16 pharmacist, or other individual designated by a practitioner to  
17 communicate prescription drug orders to a pharmacist;

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

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

27 (12) "Practitioner" means:

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

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

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

12 (D) an advanced practice registered nurse or  
13 physician assistant to whom a physician has delegated the authority  
14 to prescribe or order a drug or device under Section 157.0511,  
15 157.0512, or 157.054, Occupations Code.

16 SECTION 2.004. Section 32.03141, Human Resources Code, is  
17 amended to read as follows:

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

24 (1) an advanced practice registered nurse authorized  
25 to prescribe and order drugs and devices under Section 301.357,  
26 Occupations Code; and

27 (2) an advanced practice registered nurse or physician

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

6 SECTION 2.005. Section 843.312, Insurance Code, is amended  
7 to read as follows:

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

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

24 SECTION 2.006. Section 1301.001(1-a), Insurance Code, is  
25 amended to read as follows:

26 (1-a) "Health care provider" means a practitioner,  
27 institutional provider, or other person or organization that

1 furnishes health care services and that is licensed or otherwise  
2 authorized to practice in this state. The term includes a  
3 pharmacist, ~~and~~ a pharmacy, and an advanced practice registered  
4 nurse. The term does not include a physician.

5 SECTION 2.007. Section [1301.052](#), Insurance Code, is amended  
6 to read as follows:

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

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

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

24 SECTION 2.008. Section [1451.001](#)(2), Insurance Code, is  
25 amended to read as follows:

26 (2) "Advanced practice registered nurse" means an  
27 individual licensed by the Texas Board of Nursing as a registered



1 nurse and licensed [~~recognized~~] by that board as an advanced  
2 practice registered nurse.

3 SECTION 2.009. Section 1451.104(c), Insurance Code, is  
4 amended to read as follows:

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

13 SECTION 2.010. Section 1451.106, Insurance Code, is amended  
14 to read as follows:

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

19 SECTION 2.011. Section 1452.051(1), Insurance Code, is  
20 amended to read as follows:

21 (1) "Advanced practice nurse" has the meaning assigned  
22 to "advanced practice registered nurse" by Section 301.152,  
23 Occupations Code.

24 SECTION 2.012. Sections 551.003(14) and (34), Occupations  
25 Code, are amended to read as follows:

26 (14) "Designated agent" means:

27 (A) an individual, including a licensed nurse,

1 physician assistant, or pharmacist:

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

5 (ii) for whom the practitioner assumes  
6 legal responsibility;

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

10 (C) a registered nurse or physician assistant  
11 authorized by a practitioner to administer a prescription drug  
12 order for a dangerous drug under Subchapter B, Chapter [157](#), or an  
13 advanced practice registered nurse authorized by a practitioner to  
14 administer a prescription drug order for a dangerous drug under  
15 other law.

16 (34) "Practitioner" means:

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

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

27 (C) a person practicing in another state and

1 licensed by another state as a physician, dentist, veterinarian, or  
2 podiatrist, who has a current federal Drug Enforcement  
3 Administration registration number and who may legally prescribe a  
4 Schedule II, III, IV, or V controlled substance, as specified under  
5 Chapter 481, Health and Safety Code, in that other 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 2.013. Section 563.053, Occupations Code, is  
11 amended to read as follows:

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

21 (b) This section applies to an area located in a county with  
22 a population of 5,000 or less, or in a municipality or an  
23 unincorporated town with a population of less than 2,500, that is  
24 within a 15-mile radius of the physician's or advanced practice  
25 registered nurse's office and in which a pharmacy is not located.  
26 This section does not apply to a municipality or an unincorporated  
27 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 is authorized to prescribe and order  
4 drugs and devices under Section 301.357 and who practices advanced  
5 practice registered nursing in an area described by Subsection (b)  
6 may:

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

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

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

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

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

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

1 area until the board determines, after notice and hearing, that the  
2 physician or advanced practice registered nurse no longer practices  
3 in an area described by Subsection (b).

4 SECTION 2.014. Section 605.002(14), Occupations Code, is  
5 amended to read as follows:

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

16 SECTION 2.015. Section 605.2515, Occupations Code, is  
17 amended to read as follows:

18 Sec. 605.2515. ADDITIONAL LICENSE: DEVICE MANUFACTURER. A  
19 person licensed to practice orthotics or prosthetics who measures,  
20 designs, fabricates, fits, assembles, adjusts, or services an  
21 orthosis or a prosthesis under an order from a licensed physician,  
22 chiropractor, ~~[or]~~ podiatrist, or ~~[an]~~ advanced practice  
23 registered nurse, or from an advanced practice registered nurse or  
24 physician assistant acting under the delegation and supervision of  
25 a licensed physician as provided by Subchapter B, Chapter 157, and  
26 rules adopted by the Texas Medical Board, for a specific patient is  
27 exempt from licensing as a device manufacturer under Subchapter L,

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

11 ARTICLE 3. TRANSITION AND EFFECTIVE DATE

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

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