86R4821 BEE-D

By:  White H.B. No. 927

A BILL TO BE ENTITLED

AN ACT

relating to the practice of certain advanced practice registered nurses in certain rural counties; authorizing a fee.

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

ARTICLE 1. PRACTICE OF ADVANCED PRACTICE REGISTERED NURSES IN CERTAIN RURAL COUNTIES

SECTION 1.001.  Chapter 487, Government Code, is amended by adding Subchapter S to read as follows:

SUBCHAPTER S. REQUEST TO AUTHORIZE PRACTICE OF ADVANCED PRACTICE REGISTERED NURSES IN CERTAIN RURAL COUNTIES

Sec. 487.851.  IDENTIFICATION OF HEALTH PROFESSIONAL SHORTAGE AREAS. (a) Not later than October 1 of each year, the office shall:

(1)  identify the rural counties of this state that are determined to be health professional shortage areas by the United States Department of Health and Human Services; and

(2)  provide a list of the counties identified under Subdivision (1) to:

(A)  each county judge in this state; and

(B)  the Texas Board of Nursing.

(b)  The department by rule shall establish the criteria for a county to be identified as a rural county for the purposes of Subsection (a).

Sec. 487.852.  REQUEST FOR AUTHORIZATION OF PRACTICE OF ADVANCED PRACTICE REGISTERED NURSES. Not later than December 1 of each year, the county commissioners court of a county identified under Section 487.851(a)(1) or of an adjacent county may direct the county judge to submit to the Texas Board of Nursing a written request for the board to authorize the practice in the county of advanced practice registered nurses under Section 301.357, Occupations Code.

SECTION 1.002.  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 with respect to an advanced practice registered nurse authorized to practice under Section 301.357. Professional nursing involves:

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

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

(C)  the administration of a medication or treatment as ordered by a health care practitioner legally authorized to prescribe the medication or treatment [~~physician, podiatrist, or dentist~~];

(D)  the supervision or teaching of nursing;

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

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

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

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

(I)  the performance of an act by an advanced practice registered nurse in accordance with Section 301.357.

(6)  "Controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(7)  "Dangerous drug" has the meaning assigned by Section 483.001, Health and Safety Code.

(8)  "Device" has the meaning assigned by Section 551.003, and includes durable medical equipment.

(9)  "Nonprescription drug" has the meaning assigned by Section 551.003.

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

SECTION 1.003.  Section 301.152(b), Occupations Code, is amended to read as follows:

(b)  The board shall adopt rules to:

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

(2)  establish:

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

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

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

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

SECTION 1.004.  Subchapter H, Chapter 301, Occupations Code, is amended by adding Section 301.357 to read as follows:

Sec. 301.357.  PRACTICE OF CERTAIN ADVANCED PRACTICE REGISTERED NURSES IN CERTAIN RURAL COUNTIES. (a) The board shall authorize the practice under this section of an advanced practice registered nurse who:

(1)  practices in a county:

(A)  identified under Section 487.851(a)(1), Government Code; and

(B)  the county judge of which has submitted a request under Section 486.852, Government Code;

(2)  has been issued a prescription authorization number as provided by Section 301.152(b); and

(3)  applies for authorization under this section in the manner prescribed by the board.

(b)  The scope of practice of an advanced practice registered nurse authorized to practice under this section 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)  subject to Subsection (c), prescribing and ordering drugs and devices, including controlled substances listed in Schedules II, III, IV, and V, dangerous drugs, and nonprescription drugs;

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

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

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

(c)  An advanced practice registered nurse authorized to practice under this section may prescribe and order controlled substances listed in Schedule II only:

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

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

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

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

(d)  The board by rule:

(1)  shall prescribe the application process for authorization to practice under this section;

(2)  shall establish criteria to determine the county in which an advanced practice registered nurse practices for purposes of Subsection (a)(1); and

(3)  may set a fee for an application for authorization under this section in a reasonable amount that is sufficient to cover the costs of administering this section.

(e)  An authorization under this section remains in effect as long as the advanced practice registered nurse practices in a county described by Subsection (a)(1).

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.001.  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 301.152, Occupations Code.

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

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

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

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

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

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

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

(39)  "Practitioner" means:

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

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

(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)  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 2.004.  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 section.

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

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

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

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

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

(4)  "Designated agent" means:

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

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

(C)  an advanced practice [~~a~~] registered nurse or physician assistant authorized by a practitioner to carry out a prescription drug order for dangerous drugs under Subchapter B, Chapter 157, Occupations Code, or an advanced practice registered nurse authorized to practice under Section 301.357, Occupations Code.

(12)  "Practitioner" means:

(A)  a person licensed by:

(i)  the Texas Medical Board, State Board of Dental Examiners, [~~Texas State Board of Podiatric Medical Examiners,~~] Texas Optometry Board, Texas Board of Nursing, or State Board of Veterinary Medical Examiners to prescribe and administer dangerous drugs; or

(ii)  the Texas Department of Licensing and Regulation, with respect to podiatry, to prescribe and administer dangerous drugs;

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

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

(D)  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 2.008.  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 authorized to practice under Section 301.357, Occupations Code; and

(2)  an advanced practice registered nurse 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 2.009.  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 registered 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 practice 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 2.010.  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 2.011.  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 registered nurse or physician assistant is authorized by the physician to provide care under Subchapter B, Chapter 157, Occupations Code, or the advanced practice registered nurse is authorized to practice under Section 301.357, Occupations Code; and

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

SECTION 2.012.  Section 1451.001(2), Insurance Code, is amended to read as follows:

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

SECTION 2.013.  Section 1451.104(c), Insurance Code, is amended to read as follows:

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

SECTION 2.014.  Section 1451.106, Insurance Code, is amended to read as follows:

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

SECTION 2.015.  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 301.152, Occupations Code.

SECTION 2.016.  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

(C)  a registered nurse or physician assistant authorized by a practitioner to administer a prescription drug order for a dangerous drug under Subchapter B, Chapter 157, or an advanced practice registered nurse authorized to practice under Section 301.357.

(34)  "Practitioner" means:

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

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

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

(D)  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.

SECTION 2.017.  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 or more.

(c)  A physician who practices medicine or an advanced practice registered nurse who is authorized to practice under Section 301.357 and who practices advanced practice registered nursing in an area described by Subsection (b) may:

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

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

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

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

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

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

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

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

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

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

ARTICLE 3. TRANSITION; CONFLICT WITH OTHER LEGISLATION; EFFECTIVE DATE

SECTION 3.001.  (a)  Notwithstanding the deadline provided by Section 487.851, Government Code, as added by this Act, the Office of Rural Affairs established in the Department of Agriculture shall produce the initial list required under that section not later than December 1, 2019. Notwithstanding the deadline provided by Section 487.852, Government Code, as added by this Act, a county judge may submit an initial request as provided by that section not later than February 1, 2020.

(b)  Not later than February 1, 2020, the Texas Board of Nursing shall adopt the rules necessary to implement the changes in law made by this Act.

SECTION 3.002.  To the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 3.003.  This Act takes effect September 1, 2019.