

By: Rodríguez

S.B. No. 270

A BILL TO BE ENTITLED

AN ACT

relating to the practice of certain advanced practice registered nurses who are military veterans; authorizing a fee.

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, 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

1 illness;

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

6 (D) the supervision or teaching of nursing;

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

9 (F) the requesting, receiving, signing for, and
10 distribution of prescription drug samples to patients at practices
11 at which an advanced practice registered nurse is authorized to
12 sign prescription drug orders as provided by Subchapter B, Chapter
13 157, or Section 301.357;

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

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

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

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

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

24 (8) "Device" has the meaning assigned by Section
25 157.051.

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

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

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

5 (b) The board shall adopt rules to:

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

8 (2) establish:

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

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

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

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

27 SECTION 1.003. Subchapter H, Chapter 301, Occupations Code,

1 is amended by adding Section 301.357 to read as follows:

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

5 (b) The board shall authorize the practice under this
6 section of an advanced practice registered nurse who:

7 (1) is a military veteran;

8 (2) practiced as an advanced practice registered nurse
9 while on active duty;

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

12 (4) applies for authorization under this section in
13 the manner prescribed by the board.

14 (c) The scope of practice of an advanced practice registered
15 nurse authorized to practice under this section includes:

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

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

20 (3) treating actual and potential health problems;

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

26 (5) subject to Subsection (d), prescribing and
27 ordering drugs and devices, including controlled substances listed

1 in Schedules II, III, IV, and V, dangerous drugs, and
2 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 (d) An advanced practice registered nurse authorized to
13 practice under this section may prescribe and order controlled
14 substances listed in Schedule II only:

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

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

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

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

1 hospice treatment from a qualified hospice provider.

2 (e) The board by rule:

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

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

8 ARTICLE 2. CONFORMING AMENDMENTS

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

11 (1) "Advanced practice nurse" has the meaning assigned
12 to "advanced practice registered nurse" by Section 301.152,
13 Occupations Code.

14 SECTION 2.002. 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 301.152, Occupations Code, or a licensed
19 physician assistant as described by Chapter 204, Occupations Code,
20 who is employed by the state or whose services are acquired by
21 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 or
26 physician assistant under a prescriptive authority agreement under
27 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 2.003. Section 481.002(39), Health and Safety Code,
9 is amended to read as follows:

10 (39) "Practitioner" means:

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

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

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

1 (D) an advanced practice registered nurse or
2 physician assistant to whom a physician has delegated the authority
3 to prescribe or order a drug or device under Section 157.0511,
4 157.0512, or 157.054, Occupations Code.

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

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

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

26 (d) Except as specified in Subsections (e) and (f), the
27 board, by rule and in consultation with the Texas Medical Board and

1 the Texas Board of Nursing, shall establish the period after the
2 date on which the prescription is issued that a person may fill a
3 prescription for a controlled substance listed in Schedule II. A
4 person may not refill a prescription for a substance listed in
5 Schedule II.

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

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

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

20 (4) "Designated agent" means:

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

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

27 (C) an advanced practice ~~a~~ registered nurse or

1 physician assistant authorized by a practitioner to carry out a
2 prescription drug order for dangerous drugs under Subchapter B,
3 Chapter 157, Occupations Code, or an advanced practice registered
4 nurse authorized to practice under Section 301.357, Occupations
5 Code.

6 (12) "Practitioner" means:

7 (A) a person licensed by:

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

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

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

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

22 (D) an advanced practice registered nurse or
23 physician assistant to whom a physician has delegated the authority
24 to prescribe or order a drug or device under Section 157.0511,
25 157.0512, or 157.054, Occupations Code.

26 SECTION 2.008. Section 32.03141, Human Resources Code, is
27 amended to read as follows:

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

7 (1) an advanced practice registered nurse authorized
8 to practice under Section 301.357, Occupations Code; and

9 (2) an advanced practice registered nurse or physician
10 assistant acting under adequate physician supervision and to whom a
11 physician has delegated the authority to prescribe and order drugs
12 and devices under Chapter 157, Occupations Code~~[, may order and~~
13 ~~prescribe durable medical equipment and supplies under the medical~~
14 ~~assistance program].~~

15 SECTION 2.009. Section 843.312, Insurance Code, is amended
16 to read as follows:

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

27 (b) A health maintenance organization may refuse a request

1 under Subsection (a) if the physician assistant or advanced
2 practice registered nurse does not meet the quality of care
3 standards previously established by the health maintenance
4 organization for participation in the network by physician
5 assistants and advanced practice registered nurses.

6 SECTION 2.010. Section [1301.001\(1-a\)](#), Insurance Code, is
7 amended to read as follows:

8 (1-a) "Health care provider" means a practitioner,
9 institutional provider, or other person or organization that
10 furnishes health care services and that is licensed or otherwise
11 authorized to practice in this state. The term includes a
12 pharmacist, ~~and~~ a pharmacy, and an advanced practice registered
13 nurse. The term does not include a physician.

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

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

24 (1) the advanced practice registered nurse or
25 physician assistant is authorized by the physician to provide care
26 under Subchapter B, Chapter [157](#), Occupations Code, or the advanced
27 practice registered nurse is authorized to practice under Section

1 301.357, Occupations Code; and

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

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

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

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

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

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

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

1 SECTION 2.015. Section 1452.051(1), Insurance Code, is
2 amended to read as follows:

3 (1) "Advanced practice nurse" has the meaning assigned
4 to "advanced practice registered nurse" by Section 301.152,
5 Occupations Code.

6 SECTION 2.016. Sections 551.003(14) and (34), Occupations
7 Code, are amended to read as follows:

8 (14) "Designated agent" means:

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

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

14 (ii) for whom the practitioner assumes
15 legal responsibility;

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

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

24 (34) "Practitioner" means:

25 (A) a person licensed or registered to prescribe,
26 distribute, administer, or dispense a prescription drug or device
27 in the course of professional practice in this state, including a

1 physician, dentist, podiatrist, advanced practice registered
2 nurse, or veterinarian but excluding a person licensed under this
3 subtitle;

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

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

19 SECTION 2.017. Section 563.053, Occupations Code, is
20 amended to read as follows:

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

1 include a separate fee imposed for the act of dispensing the drug
2 itself.

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

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

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

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

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

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

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

27 (e) A physician who desires to dispense dangerous drugs

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

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

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

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

26 Sec. 605.2515. ADDITIONAL LICENSE: DEVICE MANUFACTURER. A
27 person licensed to practice orthotics or prosthetics who measures,

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

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

21 SECTION 3.001. Not later than February 1, 2020, the Texas
22 Board of Nursing shall adopt the rules necessary to implement the
23 changes in law made by this Act.

24 SECTION 3.002. To the extent of any conflict, this Act
25 prevails over another Act of the 86th Legislature, Regular Session,
26 2019, relating to nonsubstantive additions to and corrections in
27 enacted codes.

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