

By: Klick

H.B. No. 4362

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the licensing and regulation of certain health
3 professions; requiring an occupational certificate to perform
4 certain surgical procedures.

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

6 ARTICLE 1. ADVANCED PRACTICE REGISTERED NURSES

7 SECTION 1.01. Section 38.151(1), Education Code, is amended
8 to read as follows:

9 (1) "Advanced practice nurse" has the meaning assigned
10 to "advanced practice registered nurse" by Section 301.002
11 [~~301.152~~], Occupations Code.

12 SECTION 1.02. Section 61.601, Education Code, as amended by
13 Chapters 891 (H.B. 3083) and 1101 (H.B. 3808), Acts of the 85th
14 Legislature, Regular Session, 2017, is reenacted and amended to
15 read as follows:

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

18 (1) a licensed physician who is:

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

21 (B) certified in psychiatry by:

22 (i) the American Board of Psychiatry and
23 Neurology; or

24 (ii) the American Osteopathic Board of

1 Neurology and Psychiatry;

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

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

6 (4) an advanced practice registered nurse, as defined
7 by Section 301.002 [~~301.152~~], Occupations Code, who holds a
8 nationally recognized board certification in psychiatric or mental
9 health nursing;

10 (5) a licensed clinical social worker, as defined by
11 Section 505.002, Occupations Code; [~~and~~]

12 (6) a licensed marriage and family therapist, as
13 defined by Section 502.002, Occupations Code; and

14 (7) [~~(6)~~] a chemical dependency counselor, as defined
15 by Section 504.001, Occupations Code.

16 SECTION 1.03. Section 263.001(a)(1), Family Code, is
17 amended to read as follows:

18 (1) "Advanced practice nurse" has the meaning assigned
19 to "advanced practice registered nurse" by Section 301.002
20 [~~157.051~~], Occupations Code.

21 SECTION 1.04. Section 266.001(1), Family Code, is amended
22 to read as follows:

23 (1) "Advanced practice nurse" has the meaning assigned
24 to "advanced practice registered nurse" by Section 301.002
25 [~~157.051~~], Occupations Code.

26 SECTION 1.05. Section 531.0217(k), Government Code, is
27 amended to read as follows:

1 (k) This section does not affect any requirement relating
2 to:

3 (1) a rural health clinic; or

4 (2) physician delegation of the authority to carry out
5 or sign prescription drug orders to a a [~~an advanced practice nurse~~
6 ~~or~~] physician assistant.

7 SECTION 1.06. Section 671.001(b), Government Code, is
8 amended to read as follows:

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

10 (1) a licensed advanced practice registered nurse as
11 defined by Section 301.002 [~~301.152~~], Occupations Code, or a
12 licensed physician assistant as described by Chapter 204,
13 Occupations Code, who is employed by the state or whose services are
14 acquired by contract, who will be located at a state office complex;

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

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

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

1 SECTION 1.07. Section 47.001(3), Health and Safety Code, is
2 amended to read as follows:

3 (3) "Health care provider" means:

4 (A) [~~a registered nurse recognized as~~] an
5 advanced practice registered nurse as defined by Section 301.002,
6 Occupations Code; [~~the Texas Board of Nursing~~] or

7 (B) a physician assistant licensed by the Texas
8 Physician Assistant Board.

9 SECTION 1.08. Section 47.011(a), Health and Safety Code, is
10 amended to read as follows:

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

14 SECTION 1.09. Sections 161.0052(b) and (c), Health and
15 Safety Code, are amended to read as follows:

16 (b) The executive commissioner by rule shall require a
17 hospital to inform each elderly person admitted to the hospital for
18 a period of 24 hours or more that the pneumococcal and influenza
19 vaccines are available. If the elderly person requests a vaccine,
20 and if a physician, [~~or~~] an advanced nurse practitioner, or a
21 physician assistant on behalf of a physician, determines that the
22 vaccine is in the person's best interest, the hospital must make the
23 vaccination available to the person before the person is discharged
24 from the hospital.

25 (c) The executive commissioner by rule shall require an end
26 stage renal disease facility to offer, to the extent possible as
27 determined by the facility, the opportunity to receive the

1 pneumococcal and influenza vaccines to each elderly person who
2 receives ongoing care at the facility if a physician, ~~[or]~~ an
3 advanced nurse practitioner, or a physician assistant on behalf of
4 a physician, determines that the vaccine is in the person's best
5 interest. If the facility decides it is not feasible to offer the
6 vaccine, the facility must provide the person with information on
7 other options for obtaining the vaccine.

8 SECTION 1.10. Section 241.003(1), Health and Safety Code,
9 is amended to read as follows:

10 (1) "Advanced practice nurse" has the meaning assigned
11 to "advanced practice registered nurse" by Section 301.002,
12 Occupations Code ~~[means a registered nurse recognized as an~~
13 ~~advanced practice nurse by the Texas Board of Nursing]~~.

14 SECTION 1.11. Section 481.002(39), Health and Safety Code,
15 is amended to read as follows:

16 (39) "Practitioner" means:

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

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

1 (C) a person practicing in and licensed by
2 another state as a physician, dentist, veterinarian, advanced
3 practice registered nurse, or podiatrist, having a current Federal
4 Drug Enforcement Administration registration number, who may
5 legally prescribe Schedule II, III, IV, or V controlled substances
6 in that state; or

7 (D) a [~~an advanced practice registered nurse or~~]
8 physician assistant to whom a physician has delegated the authority
9 to prescribe or order a drug or device under Section [157.0511](#),
10 [157.0512](#), or [157.054](#), Occupations Code.

11 SECTION 1.12. Section [481.074](#)(d), Health and Safety Code,
12 is amended to read as follows:

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

20 SECTION 1.13. Section [481.076](#)(c), Health and Safety Code,
21 is amended to read as follows:

22 (c) The board by rule shall design and implement a system
23 for submission of information to the board by electronic or other
24 means and for retrieval of information submitted to the board under
25 this section and Sections [481.074](#) and [481.075](#). The board shall use
26 automated information security techniques and devices to preclude
27 improper access to the information. The board shall submit the

1 system design to the director, ~~and~~ the Texas Medical Board, and
2 the Texas Board of Nursing for review and comment a reasonable time
3 before implementation of the system and shall comply with the
4 comments of those agencies unless it is unreasonable to do so.

5 SECTION 1.14. Section 481.0767(b), Health and Safety Code,
6 is amended to read as follows:

7 (b) The board shall appoint the following members to the
8 advisory committee:

9 (1) a physician licensed in this state who practices
10 in pain management;

11 (2) a physician licensed in this state who practices
12 in family medicine;

13 (3) a physician licensed in this state who performs
14 surgery;

15 (4) a physician licensed in this state who practices
16 in emergency medicine at a hospital;

17 (5) a physician licensed in this state who practices
18 in psychiatry;

19 (6) an oral and maxillofacial surgeon;

20 (7) a physician assistant ~~[or advanced practice~~
21 ~~registered nurse]~~ to whom a physician has delegated the authority
22 to prescribe or order a drug or an advanced practice registered
23 nurse;

24 (8) a pharmacist working at a chain pharmacy;

25 (9) a pharmacist working at an independent pharmacy;

26 (10) an academic pharmacist; and

27 (11) two representatives of the health information

1 technology industry, at least one of whom is a representative of a
2 company whose primary line of business is electronic medical
3 records.

4 SECTION 1.15. Sections 483.001(4), (12), and (13), Health
5 and Safety Code, are amended to read as follows:

6 (4) "Designated agent" means:

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

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

13 (C) a [~~registered nurse or~~] physician assistant
14 authorized by a practitioner to carry out a prescription drug order
15 for dangerous drugs under Subchapter B, Chapter 157, Occupations
16 Code.

17 (12) "Practitioner" means:

18 (A) a person licensed by:

19 (i) the Texas Medical Board, State Board of
20 Dental Examiners, Texas Optometry Board, or State Board of
21 Veterinary Medical Examiners to prescribe and administer dangerous
22 drugs; or

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

26 (B) a person licensed by another state in a
27 health field in which, under the laws of this state, a licensee may

1 legally prescribe dangerous drugs;

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

5 (D) a ~~[an advanced practice registered nurse or]~~
6 physician assistant to whom a physician has delegated the authority
7 to prescribe or order a drug or device under Section 157.0511,
8 157.0512, or 157.054, Occupations Code; or

9 (E) an advanced practice registered nurse
10 authorized to prescribe and order drugs and devices under Section
11 301.358, Occupations Code.

12 (13) "Prescription" means an order from a
13 practitioner, or an agent of the practitioner designated in writing
14 as authorized to communicate prescriptions, or an order made in
15 accordance with Subchapter B, Chapter 157, Occupations Code, or
16 Section 203.353, Occupations Code, to a pharmacist for a dangerous
17 drug to be dispensed that states:

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

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

20 (C) if the drug is prescribed for an animal, the
21 species of the animal;

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

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

24 (F) the intended use of the drug unless the
25 practitioner determines the furnishing of this information is not
26 in the best interest of the patient;

27 (G) the name, address, and telephone number of

1 the practitioner at the practitioner's usual place of business,
2 legibly printed or stamped; and

3 (H) the name, address, and telephone number of
4 the licensed midwife[~~, registered nurse,~~] or physician assistant,
5 legibly printed or stamped, if signed by a licensed midwife[~~,~~
6 ~~registered nurse,~~] or physician assistant.

7 SECTION 1.16. Section 483.022(f), Health and Safety Code,
8 is amended to read as follows:

9 (f) A practitioner may designate a person who is a licensed
10 vocational nurse or has an education equivalent to or greater than
11 that required for a licensed vocational nurse to communicate
12 prescriptions of a a [~~an advanced practice nurse or~~] physician
13 assistant authorized by the practitioner to sign prescription drug
14 orders under Subchapter B, Chapter 157, Occupations Code, or of an
15 advanced practice registered nurse.

16 SECTION 1.17. Section 483.042(a), Health and Safety Code,
17 is amended to read as follows:

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

20 (1) unless:

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

23 (i) a prescription issued by a practitioner
24 described by Section 483.001(12)(A), [or] (B), or (E);

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

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

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

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

8 (ii) the date the prescription for the drug
9 is dispensed;

10 (iii) the number of the prescription as
11 filed in the prescription files of the pharmacy from which the
12 prescription is dispensed;

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

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

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

21 (2) unless:

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

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

26 (ii) a [~~registered nurse or~~] physician
27 assistant in the course of practice in accordance with Subchapter

1 B, Chapter 157, Occupations Code; and

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

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

8 (ii) the date the drug is delivered;

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

12 (iv) the name of the drug, the strength of
13 the drug, and directions for the use of the drug.

14 SECTION 1.18. Section 32.024(gg), Human Resources Code, is
15 amended to read as follows:

16 (gg) Notwithstanding any other law, including Sections
17 843.312 and 1301.052, Insurance Code, the commission shall ensure
18 that advanced practice registered nurses and physician assistants
19 may be selected by and assigned to recipients of medical assistance
20 as the primary care providers of those recipients ~~[regardless of
21 whether the physician supervising the advanced practice registered
22 nurse is included in any directory of providers of medical
23 assistance maintained by the commission]~~. This subsection may not
24 be construed as authorizing the commission to supervise or control
25 the practice of medicine as prohibited by Subtitle B, Title 3,
26 Occupations Code. The commission must require that advanced
27 practice registered nurses and physician assistants be treated in

1 the same manner as primary care physicians with regard to:

2 (1) selection and assignment as primary care
3 providers; and

4 (2) inclusion as primary care providers in any
5 directory of providers of medical assistance maintained by the
6 commission.

7 SECTION 1.19. Section 32.03141, Human Resources Code, is
8 amended to read as follows:

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

15 (1) an advanced practice registered nurse; and

16 (2) a [or] physician assistant acting under adequate
17 physician supervision and to whom a physician has delegated the
18 authority to prescribe and order drugs and devices under Chapter
19 157, Occupations Code[~~, may order and prescribe durable medical~~
20 equipment and supplies under the medical assistance program].

21 SECTION 1.20. Section 843.312, Insurance Code, is amended
22 to read as follows:

23 Sec. 843.312. PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
24 REGISTERED NURSES. (a) A health maintenance organization may not
25 refuse a request by a physician participating in the health
26 maintenance organization delivery network and a physician
27 assistant [~~or advanced practice nurse~~] who is authorized by the

1 physician to provide care under Subchapter B, Chapter 157,
2 Occupations Code, or an advanced practice registered nurse, as
3 defined by Section 301.002, Occupations Code, to identify a
4 physician assistant or advanced practice registered nurse as a
5 provider in the network.

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

12 SECTION 1.21. Section 1301.001(1-a), Insurance Code, is
13 amended to read as follows:

14 (1-a) "Health care provider" means a practitioner,
15 institutional provider, or other person or organization that
16 furnishes health care services and that is licensed or otherwise
17 authorized to practice in this state. The term includes a
18 pharmacist, ~~and~~ a pharmacy, and an advanced practice registered
19 nurse. The term does not include a physician.

20 SECTION 1.22. Section 1301.052, Insurance Code, is amended
21 to read as follows:

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

1 physician assistant included as a preferred provider under the plan
2 if, as applicable:

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

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

10 SECTION 1.23. Section 1451.001(2), Insurance Code, is
11 amended to read as follows:

12 (2) "Advanced practice registered nurse" has the
13 meaning assigned by Section 301.002, Occupations Code [~~means an~~
14 ~~individual licensed by the Texas Board of Nursing as a registered~~
15 ~~nurse and recognized by that board as an advanced practice nurse~~].

16 SECTION 1.24. Section 1451.104(c), Insurance Code, is
17 amended to read as follows:

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

26 SECTION 1.25. Section 1451.106, Insurance Code, is amended
27 to read as follows:

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

5 SECTION 1.26. Section 1452.051(1), Insurance Code, is
6 amended to read as follows:

7 (1) "Advanced practice nurse" has the meaning assigned
8 to "advanced practice registered nurse" by Section 301.002
9 [301.152], Occupations Code.

10 SECTION 1.27. Section 408.025, Labor Code, is amended by
11 amending Subsection (a-1) and adding Subsection (a-2) to read as
12 follows:

13 (a-1) A [~~treating doctor may delegate to a physician~~
14 ~~assistant who is licensed to practice in this state under Chapter~~
15 ~~204, Occupations Code, or an advanced practice registered nurse who~~
16 ~~is licensed to practice in this state under Chapter 301,~~
17 ~~Occupations Code, the authority to complete and sign a]~~ work status
18 report regarding an injured employee's ability to return to work
19 may be completed and signed by:

20 (1) a physician assistant licensed to practice in this
21 state under Chapter 204, Occupations Code, who has been delegated
22 the authority by a treating doctor; or

23 (2) an advanced practice registered nurse, as defined
24 by Section 301.002, Occupations Code.

25 (a-2) The delegating treating doctor is responsible for the
26 acts of a [~~the~~] physician assistant [~~or advanced practice~~
27 ~~registered nurse~~] under Subsection (a-1) [~~this subsection~~].

1 SECTION 1.28. The heading to Subchapter B, Chapter 157,
2 Occupations Code, is amended to read as follows:

3 SUBCHAPTER B. DELEGATION TO [~~ADVANCED PRACTICE REGISTERED NURSES~~
4 ~~AND~~] PHYSICIAN ASSISTANTS

5 SECTION 1.29. Sections 157.051(11) and (14), Occupations
6 Code, are amended to read as follows:

7 (11) "Practice serving a medically underserved
8 population" means:

9 (A) a practice in a health professional shortage
10 area;

11 (B) a clinic designated as a rural health clinic
12 under 42 U.S.C. Section 1395x(aa);

13 (C) a public health clinic or a family planning
14 clinic under contract with the Health and Human Services Commission
15 or the Department of State Health Services;

16 (D) a clinic designated as a federally qualified
17 health center under 42 U.S.C. Section 1396d(1)(2)(B);

18 (E) a county, state, or federal correctional
19 facility;

20 (F) a practice:

21 (i) that either:

22 (a) is located in an area in which the
23 Department of State Health Services determines there is an
24 insufficient number of physicians providing services to eligible
25 clients of federally, state, or locally funded health care
26 programs; or

27 (b) is a practice that the Department

1 of State Health Services determines serves a disproportionate
2 number of clients eligible to participate in federally, state, or
3 locally funded health care programs; and

4 (ii) for which the Department of State
5 Health Services publishes notice of the department's determination
6 in the Texas Register and provides an opportunity for public
7 comment in the manner provided for a proposed rule under Chapter
8 2001, Government Code; or

9 (G) a practice at which a physician was
10 delegating prescriptive authority to an advanced practice
11 registered nurse, as defined by Section 301.002, or physician
12 assistant on or before March 1, 2013, based on the practice
13 qualifying as a site serving a medically underserved population.

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

20 SECTION 1.30. Section 157.0511(b-2), Occupations Code, is
21 amended to read as follows:

22 (b-2) The board shall adopt rules that require a physician
23 who delegates the prescribing or ordering of a drug or device to
24 register with the board the name and license number of the physician
25 assistant ~~[or advanced practice registered nurse]~~ to whom a
26 delegation is made. The board may develop and use an electronic
27 online delegation registration process for registration under this

1 subsection.

2 SECTION 1.31. Sections 157.0512(a), (b), (c), (e), (f),
3 (g), (i), (j), (l), (m), (n), and (o), Occupations Code, are amended
4 to read as follows:

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

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

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

18 [~~(2)~~] the [~~advanced practice registered nurse or~~]
19 physician assistant:

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

24 (B) is not currently prohibited by the [~~Texas~~
25 ~~Board of Nursing or the~~] Texas Physician Assistant Board[~~, as~~
26 ~~applicable,~~] from executing a prescriptive authority agreement;
27 and

1 (2) [~~(3)~~] before executing the prescriptive authority
2 agreement, the physician and the [~~advanced practice registered~~
3 ~~nurse or~~] physician assistant disclose to the other prospective
4 party to the agreement any prior disciplinary action by the board[~~—~~
5 ~~the Texas Board of Nursing,~~] or the Texas Physician Assistant
6 Board[~~—~~as applicable].

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

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

15 (1) be in writing and signed and dated by the parties
16 to the agreement;

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

19 (3) state the nature of the practice, practice
20 locations, or practice settings;

21 (4) identify the types or categories of drugs or
22 devices that may be prescribed or the types or categories of drugs
23 or devices that may not be prescribed;

24 (5) provide a general plan for addressing consultation
25 and referral;

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

27 (7) state the general process for communication and

1 the sharing of information between the physician and the [~~advanced~~
2 ~~practice registered nurse or~~] physician assistant to whom the
3 physician has delegated prescriptive authority related to the care
4 and treatment of patients;

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

7 (A) provide appropriate supervision on a
8 temporary basis in accordance with the requirements established by
9 the prescriptive authority agreement and the requirements of this
10 subchapter; and

11 (B) participate in the prescriptive authority
12 quality assurance and improvement plan meetings required under this
13 section; and

14 (9) describe a prescriptive authority quality
15 assurance and improvement plan and specify methods for documenting
16 the implementation of the plan that include the following:

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

20 (B) periodic meetings between the [~~advanced~~
21 ~~practice registered nurse or~~] physician assistant and the
22 physician.

23 (f) The periodic meetings described by Subsection (e)(9)(B)
24 must:

25 (1) include:

26 (A) the sharing of information relating to
27 patient treatment and care, needed changes in patient care plans,

1 and issues relating to referrals; and

2 (B) discussion of patient care improvement;

3 (2) be documented; and

4 (3) take place at least once a month in a manner
5 determined by the physician and the [~~advanced practice registered~~
6 ~~nurse or~~] physician assistant.

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

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

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

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

23 (m) The prescriptive authority agreement and any amendments
24 must be reviewed at least annually, dated, and signed by the parties
25 to the agreement. The prescriptive authority agreement and any
26 amendments must be made available to the board[~~, the Texas Board of~~
27 ~~Nursing,~~] or the Texas Physician Assistant Board not later than the

1 third business day after the date of receipt of request, if any.

2 (n) The prescriptive authority agreement should promote the
3 exercise of professional judgment by the [~~advanced practice~~
4 ~~registered nurse or~~] physician assistant commensurate with the
5 [~~advanced practice registered nurse's or~~] physician assistant's
6 education and experience and the relationship between the [~~advanced~~
7 ~~practice registered nurse or~~] physician assistant and the
8 physician.

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

13 SECTION 1.32. Section [157.0513](#), Occupations Code, is
14 amended to read as follows:

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

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

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

27 (3) by which each board shall maintain and share a list

1 of the board's license holders who have been subject to a final
2 adverse disciplinary action for an act involving the delegation and
3 supervision of prescriptive authority; and

4 (4) to ensure that each [~~advanced practice registered~~
5 ~~nurse or~~] physician assistant who has entered into a prescriptive
6 authority agreement authorizing the prescribing of opioids is
7 required to complete not less than two hours of continuing
8 education annually regarding safe and effective pain management
9 related to the prescription of opioids and other controlled
10 substances, including education regarding:

11 (A) reasonable standards of care;

12 (B) the identification of drug-seeking behavior
13 in patients; and

14 (C) effectively communicating with patients
15 regarding the prescription of an opioid or other controlled
16 substance.

17 (b) If the board [~~, the Texas Board of Nursing,~~] or the Texas
18 Physician Assistant Board receives a notice under Subsection
19 (a)(2), the board that received notice may open an investigation
20 against a license holder of the board who is a party to a
21 prescriptive authority agreement with the license holder who is
22 under investigation by the board that provided notice under
23 Subsection (a)(2).

24 (c) The board shall maintain and make available to the
25 public a searchable online list of physicians [~~, advanced practice~~
26 ~~registered nurses,~~] and physician assistants who have entered into
27 a prescriptive authority agreement authorized under Section

1 157.0512 and identify the physician~~[, advanced practice registered~~
2 nurse~~, or physician assistant]~~ with whom each ~~[physician, advanced~~
3 ~~practice registered nurse, and]~~ physician assistant has entered
4 into a prescriptive authority agreement.

5 (d) The board shall collaborate with the ~~[Texas Board of~~
6 ~~Nursing and the]~~ Texas Physician Assistant Board to maintain and
7 make available to the public a list of physicians~~[, advanced~~
8 ~~practice registered nurses,]~~ and physician assistants who are
9 prohibited from entering into or practicing under a prescriptive
10 authority agreement.

11 SECTION 1.33. Sections 157.054(a), (a-1), (b), and (c),
12 Occupations Code, are amended to read as follows:

13 (a) One or more physicians licensed by the board may
14 delegate, to one or more physician assistants ~~[or advanced practice~~
15 ~~registered nurses]~~ acting under adequate physician supervision
16 whose practice is facility-based at a hospital or licensed
17 long-term care facility, the administration or provision of a drug
18 and the prescribing or ordering of a drug or device if each of the
19 delegating physicians is:

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

23 (2) the chair of the facility's credentialing
24 committee;

25 (3) a department chair of a facility department in
26 which the physician assistant ~~[or advanced practice registered~~
27 ~~nurse]~~ practices; or

1 (4) a physician who consents to the request of the
2 medical director or chief of medical staff to delegate the
3 prescribing or ordering of a drug or device at the facility in which
4 the physician assistant [~~or advanced practice registered nurse~~]
5 practices.

6 (a-1) The limit [~~limits~~] on the number of [~~advanced practice~~
7 ~~registered nurses or~~] physician assistants to whom a physician may
8 delegate under Section [157.0512](#) does [~~do~~] not apply to a physician
9 under Subsection (a) whose practice is facility-based under this
10 section, provided that the physician is not delegating in a
11 freestanding clinic, center, or practice of the facility.

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

14 (1) the delegation must be made under a physician's
15 order, standing medical order, standing delegation order, or
16 another order or protocol developed in accordance with policies
17 approved by the facility's medical staff or a committee of the
18 facility's medical staff as provided by the facility bylaws;

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

23 (3) the delegation may not permit the prescribing or
24 ordering of a drug or device for the care or treatment of the
25 patients of any other physician without the prior consent of that
26 physician; and

27 (4) delegation in a long-term care facility must be by

1 the medical director and is limited to the prescribing or ordering
2 of a drug or device to not more than seven [~~advanced practice~~
3 ~~registered nurses or~~] physician assistants or their full-time
4 equivalents.

5 (c) Physician supervision of the prescribing or ordering of
6 a drug or device must conform to what a reasonable, prudent
7 physician would find consistent with sound medical judgment but may
8 vary with the education and experience of the particular [~~advanced~~
9 ~~practice registered nurse or~~] physician assistant. A physician
10 shall provide continuous supervision, but the constant physical
11 presence of the physician is not required.

12 SECTION 1.34. Section [157.055](#), Occupations Code, is amended
13 to read as follows:

14 Sec. 157.055. ORDERS AND PROTOCOLS. A protocol or other
15 order shall be defined in a manner that promotes the exercise of
16 professional judgment by the [~~advanced practice registered nurse~~
17 ~~and~~] physician assistant commensurate with the education and
18 experience of that person. Under this section, an order or
19 protocol used by a reasonable and prudent physician exercising
20 sound medical judgment:

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

25 (2) may state the types or categories of medications
26 that may be prescribed or the types or categories of medications
27 that may not be prescribed.

1 SECTION 1.35. Section 157.056, Occupations Code, is amended
2 to read as follows:

3 Sec. 157.056. PRESCRIPTION INFORMATION. The following
4 information must be provided on each prescription subject to this
5 subchapter:

- 6 (1) the patient's name and address;
- 7 (2) the drug to be dispensed;
- 8 (3) directions to the patient regarding the taking of
9 the drug and the dosage;
- 10 (4) the intended use of the drug, if appropriate;
- 11 (5) the name, address, and telephone number of the
12 physician;
- 13 (6) the name, address, telephone number, and
14 identification number of the [~~registered nurse or~~] physician
15 assistant completing or signing the prescription drug order;
- 16 (7) the date; and
- 17 (8) the number of refills permitted.

18 SECTION 1.36. Sections 157.059(b), (e), (f), (g), (h), and
19 (i), Occupations Code, are amended to read as follows:

20 (b) A physician may delegate to a physician assistant
21 offering obstetrical services and certified by the board as
22 specializing in obstetrics [~~or an advanced practice registered~~
23 ~~nurse recognized by the Texas Board of Nursing as a nurse midwife]~~
24 the act of administering or providing controlled substances to the
25 physician assistant's [~~or nurse midwife's~~] clients during
26 intrapartum and immediate postpartum care.

27 (e) The physician's orders, medical orders, standing

1 delegation orders, prescriptive authority agreements, or protocols
2 must require the reporting of or monitoring of each client's
3 progress, including complications of pregnancy and delivery and the
4 administration and provision of controlled substances by the [~~nurse~~
5 ~~midwife or~~] physician assistant to the clients of the [~~nurse~~
6 ~~midwife or~~] physician assistant.

7 (f) The authority of a physician to delegate under this
8 section is limited to:

9 (1) seven [~~nurse midwives or~~] physician assistants or
10 their full-time equivalents; and

11 (2) the designated facility at which the [~~nurse~~
12 ~~midwife or~~] physician assistant provides care.

13 (g) The controlled substance must be supplied in a suitable
14 container that is labeled in compliance with the applicable drug
15 laws and must include:

16 (1) the patient's name and address;

17 (2) the drug to be provided;

18 (3) the name, address, and telephone number of the
19 physician;

20 (4) the name, address, and telephone number of the
21 [~~nurse midwife or~~] physician assistant; and

22 (5) the date.

23 (h) This section does not authorize a physician or [~~7~~]
24 physician assistant [~~7 or nurse midwife~~] to operate a retail
25 pharmacy as defined under Subtitle J.

26 (i) This section authorizes a physician to delegate the act
27 of administering or providing a controlled substance to a [~~nurse~~

1 ~~midwife or~~] physician assistant but does not require physician
2 delegation of [~~+~~
3 ~~(1) further acts to a nurse midwife, or~~
4 ~~(2)~~] the administration of medications by a physician
5 assistant [~~or registered nurse~~] other than as provided by this
6 section.

7 SECTION 1.37. Section 157.060, Occupations Code, is amended
8 to read as follows:

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

19 SECTION 1.38. Section 203.002(2), Occupations Code, is
20 amended to read as follows:

21 (2) "Certified nurse-midwife" means an advanced
22 practice [~~a person who is:~~

23 ~~(A) a~~] registered nurse as defined by Section
24 301.002 who is [~~under Chapter 301,~~

25 ~~(B) recognized as an advanced nurse~~
26 ~~practitioner by the Texas Board of Nursing, and~~

27 ~~(C)~~] certified by the American College of

1 Nurse-Midwives.

2 SECTION 1.39. Section [204.1025](#), Occupations Code, is
3 amended to read as follows:

4 Sec. 204.1025. DUTIES REGARDING PRESCRIPTIVE AUTHORITY
5 AGREEMENTS. The physician assistant board shall in conjunction
6 with the Texas Medical Board [~~and the Texas Board of Nursing~~]
7 perform the functions and duties relating to prescriptive authority
8 agreements assigned to the physician assistant board in Sections
9 [157.0512](#) and [157.0513](#).

10 SECTION 1.40. Section [301.002](#), Occupations Code, is amended
11 to read as follows:

12 Sec. 301.002. DEFINITIONS. In this chapter:

13 (1) "Advanced practice registered nurse" means a
14 registered nurse licensed by the board to practice as an advanced
15 practice registered nurse on the basis of completion of an advanced
16 educational program. The term includes a nurse practitioner, nurse
17 midwife, nurse anesthetist, and clinical nurse specialist.

18 (2) [~~(1)~~] "Board" means the Texas Board of Nursing.

19 (3) [~~(1-a)~~] "Chief nursing officer" means the
20 registered nurse who is administratively responsible for the
21 nursing services at a facility.

22 (4) "Controlled substance" has the meaning assigned by
23 Section [481.002](#), Health and Safety Code.

24 (5) "Dangerous drug" has the meaning assigned by
25 Section [483.001](#), Health and Safety Code.

26 (6) "Device" has the meaning assigned by Section
27 [551.003](#), and includes durable medical equipment.

1 (7) "Nonprescription drug" has the meaning assigned by
2 Section 551.003.

3 (8) "Nurse" means a person required to be licensed
4 under this chapter to engage in professional or vocational nursing.

5 (9) "Nursing" means professional or vocational
6 nursing.

7 (10) [~~(1-b)~~] "Patient safety committee" has the
8 meaning assigned by Section 303.001.

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

11 (12) [~~(2)~~] "Professional nursing" means the
12 performance of an act that requires substantial specialized
13 judgment and skill, the proper performance of which is based on
14 knowledge and application of the principles of biological,
15 physical, and social science as acquired by a completed course in an
16 approved school of professional nursing. The term does not include
17 acts of medical diagnosis or the prescription of therapeutic or
18 corrective measures, except as authorized for an advanced practice
19 registered nurse. Professional nursing involves:

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

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

26 (C) the administration of a medication or
27 treatment as ordered by a health care practitioner legally

1 authorized to prescribe the medication or treatment [~~physician,~~
2 ~~podiatrist, or dentist~~];

3 (D) the supervision or teaching of nursing;

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

6 (F) [~~the requesting, receiving, signing for, and~~
7 ~~distribution of prescription drug samples to patients at practices~~
8 ~~at which an advanced practice registered nurse is authorized to~~
9 ~~sign prescription drug orders as provided by Subchapter B, Chapter~~
10 ~~157,~~

11 [~~(C)~~] the performance of an act by an advanced
12 practice registered nurse [~~delegated by a physician under Section~~
13 ~~157.0512, 157.054, 157.058, or 157.059~~]; and

14 (G) [~~(H)~~] the development of the nursing care
15 plan.

16 [~~(3) "Nurse" means a person required to be licensed~~
17 ~~under this chapter to engage in professional or vocational nursing.~~

18 [~~(4) "Nursing" means professional or vocational~~
19 ~~nursing.~~]

20 (13) [~~(5)~~] "Vocational nursing" means a directed
21 scope of nursing practice, including the performance of an act that
22 requires specialized judgment and skill, the proper performance of
23 which is based on knowledge and application of the principles of
24 biological, physical, and social science as acquired by a completed
25 course in an approved school of vocational nursing. The term does
26 not include acts of medical diagnosis or the prescription of
27 therapeutic or corrective measures. Vocational nursing involves:

1 (A) collecting data and performing focused
2 nursing assessments of the health status of an individual;

3 (B) participating in the planning of the nursing
4 care needs of an individual;

5 (C) participating in the development and
6 modification of the nursing care plan;

7 (D) participating in health teaching and
8 counseling to promote, attain, and maintain the optimum health
9 level of an individual;

10 (E) assisting in the evaluation of an
11 individual's response to a nursing intervention and the
12 identification of an individual's needs; and

13 (F) engaging in other acts that require education
14 and training, as prescribed by board rules and policies,
15 commensurate with the nurse's experience, continuing education,
16 and demonstrated competency.

17 SECTION 1.41. Section 301.005(b), Occupations Code, is
18 amended to read as follows:

19 (b) A reference in any other law to an "advanced nurse
20 practitioner," [~~or~~] "advanced practice nurse," or "advanced
21 practice registered nurse" means an advanced practice registered
22 nurse.

23 SECTION 1.42. Section 301.152, Occupations Code, is
24 transferred to Subchapter H, Chapter 301, Occupations Code,
25 redesignated as Section 301.357, Occupations Code, and amended to
26 read as follows:

27 Sec. 301.357 [~~301.152~~]. ADVANCED PRACTICE REGISTERED NURSES

1 ~~[RULES REGARDING SPECIALIZED TRAINING]~~. (a) Advanced practice
2 registered nursing includes:

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

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

7 (3) treating actual and potential health problems;

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

13 (5) to the extent authorized by the board under
14 Section 301.358, prescribing, ordering, procuring, administering,
15 and dispensing drugs and devices, including blood and blood
16 products, controlled substances listed in Schedules II, III, IV,
17 and V, dangerous drugs, and nonprescription drugs;

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

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

22 (8) performing other acts that require education and
23 training consistent with professional standards and that are
24 commensurate with the advanced practice registered nurse's
25 education, licensure, and demonstrated competencies and
26 experience. ~~[In this section, "advanced practice registered nurse"~~

27 means a registered nurse licensed by the board to practice as an

1 ~~advanced practice registered nurse on the basis of completion of an~~
2 ~~advanced educational program. The term includes a nurse~~
3 ~~practitioner, nurse midwife, nurse anesthetist, and clinical nurse~~
4 ~~specialist. The term is synonymous with "advanced nurse~~
5 ~~practitioner" and "advanced practice nurse."]~~

6 (b) The board shall adopt rules to:

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

9 (2) establish:

10 (A) any specialized education or training,
11 including pharmacology, that an advanced practice registered nurse
12 must have to prescribe or order a drug or device as authorized
13 ~~[delegated]~~ by the board ~~[a physician]~~ under Section 301.358
14 ~~[157.0512 or 157.054]~~;

15 (B) a system for approving an advanced practice
16 registered nurse to prescribe or order a drug or device as
17 authorized ~~[delegated]~~ by the board ~~[a physician]~~ under Section
18 301.358 ~~[157.0512 or 157.054]~~ on the receipt of evidence of
19 completing the specialized education and training requirement
20 under Paragraph (A); and

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

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

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

3 (1) require completion of pharmacology and related
4 pathophysiology education for initial approval; and

5 (2) require continuing education in clinical
6 pharmacology and related pathophysiology in addition to any
7 continuing education otherwise required under Section 301.303.

8 (d) The signature of an advanced practice registered nurse
9 attesting to the provision of a legally authorized service by the
10 advanced practice registered nurse satisfies any documentation
11 requirement for that service established by a state agency.

12 (e) An advanced practice registered nurse shall practice as
13 a licensed independent practitioner in accordance with standards
14 established and recognized by the board to protect the public
15 health and safety.

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

18 (1) complying with the requirements of this chapter;
19 (2) providing quality advanced nursing care;
20 (3) recognizing the nurse's limits of knowledge;
21 (4) planning for the management of situations beyond
22 the nurse's expertise; and

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

25 (g) This section does not limit or modify the scope of
26 practice of a registered nurse who is not an advanced practice
27 registered nurse.

1 (h) Notwithstanding any other law, an advanced practice
2 registered nurse performing an act described by Subsection (a) is
3 not considered to be practicing medicine without a license.

4 SECTION 1.43. Section 301.354(a), Occupations Code, is
5 amended to read as follows:

6 (a) In this section, "nurse first assistant" means a
7 registered nurse who:

8 (1) has completed a nurse first assistant educational
9 program approved or recognized by an organization recognized by the
10 board; and

11 (2) ~~is~~ either:

12 (A) is certified in perioperative nursing by an
13 organization recognized by the board; or

14 (B) is ~~[recognized by the board as]~~ an advanced
15 practice registered nurse ~~[and]~~ qualified by education, training,
16 or experience to perform the tasks involved in perioperative
17 nursing.

18 SECTION 1.44. Subchapter H, Chapter 301, Occupations Code,
19 is amended by adding Section 301.358 to read as follows:

20 Sec. 301.358. PRESCRIBING AND ORDERING AUTHORITY OF
21 ADVANCED PRACTICE REGISTERED NURSE. (a) The board may authorize an
22 advanced practice registered nurse to prescribe and order drugs and
23 devices, including controlled substances listed in Schedules III,
24 IV, and V, dangerous drugs, and nonprescription drugs.

25 (b) Except as provided by Subsection (c), the board may
26 authorize an advanced practice registered nurse to prescribe and
27 order controlled substances listed in Schedule II only:

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

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

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

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

15 (c) The board may authorize a certified registered nurse
16 anesthetist practicing in an ambulatory surgical center to order
17 drugs and devices necessary for the nurse anesthetist to administer
18 an anesthetic or anesthesia-related service.

19 SECTION 1.45. Sections 551.003(14) and (34), Occupations
20 Code, are amended to read as follows:

21 (14) "Designated agent" means:

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

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

27 (ii) for whom the practitioner assumes

1 legal responsibility;

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

5 (C) a [~~registered nurse or~~] physician assistant
6 authorized by a practitioner to administer a prescription drug
7 order for a dangerous drug under Subchapter B, Chapter 157.

8 (34) "Practitioner" means:

9 (A) a person licensed or registered to prescribe,
10 distribute, administer, or dispense a prescription drug or device
11 in the course of professional practice in this state, including a
12 physician, dentist, podiatrist, advanced practice registered nurse
13 authorized to prescribe and order drugs and devices under Section
14 301.358, or veterinarian but excluding a person licensed under this
15 subtitle;

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

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

27 (D) a [~~an advanced practice registered nurse or~~]

1 physician assistant to whom a physician has delegated the authority
2 to prescribe or order a drug or device under Section 157.0511,
3 157.0512, or 157.054.

4 SECTION 1.46. Section 563.051(e), Occupations Code, is
5 amended to read as follows:

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

13 SECTION 1.47. Sections 605.002(14) and (18), Occupations
14 Code, are amended to read as follows:

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

24 (18) "Prosthetics" means the science and practice of
25 measuring, designing, fabricating, assembling, fitting, adjusting,
26 or servicing a prosthesis under an order from a licensed physician,
27 chiropractor, [~~or~~] podiatrist, or [~~an~~] advanced practice

1 registered nurse, or from a physician assistant acting under the
2 delegation and supervision of a licensed physician as provided by
3 Subchapter B, Chapter 157, and rules adopted by the Texas Medical
4 Board.

5 SECTION 1.48. Section 605.2515, Occupations Code, is
6 amended to read as follows:

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

26 SECTION 1.49. The following provisions are repealed:

27 (1) Section 533.005(d), Government Code;

1 (2) Section 62.1551(b), Health and Safety Code; and

2 (3) Sections 157.051(1), 157.058, and 301.168,
3 Occupations Code.

4 SECTION 1.50. Not later than February 1, 2022, the Texas
5 Board of Nursing shall adopt the rules necessary to implement the
6 changes in law made by this Act.

7 SECTION 1.51. Notwithstanding any changes in law made by
8 this Act, an advanced practice registered nurse who has been
9 delegated the authority to prescribe and order drugs and medical
10 devices by a physician's protocol or order under Section 157.0511,
11 157.0512, or 157.054, Occupations Code, may continue to exercise
12 that authority until February 1, 2022.

13 ARTICLE 2. DENTAL HYGIENISTS

14 SECTION 2.01. Section 258.001, Occupations Code, is amended
15 to read as follows:

16 Sec. 258.001. [~~IMPERMISSIBLE~~] DELEGATIONS. (a) A dentist
17 may not delegate:

18 (1) an act to an individual who, by board order, is
19 prohibited from performing the act;

20 (2) any of the following acts to a person not licensed
21 as a dentist or dental hygienist:

22 (A) the removal of calculus, deposits, or
23 accretions from the natural and restored surfaces of exposed human
24 teeth and restorations in the human mouth;

25 (B) root planing or the smoothing and polishing
26 of roughened root surfaces or exposed human teeth; or

27 (C) any other act the delegation of which is

1 prohibited by board rule; or

2 (3) any of the following acts to a person not licensed
3 as a dentist:

4 (A) comprehensive examination or diagnosis and
5 treatment planning;

6 (B) a surgical or cutting procedure on hard or
7 soft tissue;

8 (C) the prescription of a drug, medication, or
9 work authorization;

10 (D) the taking of an impression for a final
11 restoration, appliance, or prosthesis;

12 (E) the making of an intraoral occlusal
13 adjustment;

14 (F) direct pulp capping, pulpotomy, or any other
15 endodontic procedure;

16 (G) the final placement and intraoral adjustment
17 of a fixed or removable appliance; or

18 (H) the placement of any final restoration.

19 (b) A dentist may delegate ~~[, or~~

20 ~~[(4) the authority]~~ to an individual the authority to
21 administer a local anesthetic agent, inhalation sedative agent,
22 parenteral sedative agent, or general anesthetic agent if the
23 individual is ~~[not]~~ licensed as:

24 (1) ~~[(A)]~~ a dentist, with a permit issued by the board
25 for the procedure being performed ~~[,]~~ if a permit is required;

26 (2) ~~[(B)]~~ a certified registered nurse anesthetist
27 ~~[licensed]~~ by the Texas Board of Nursing, only if the delegating

1 dentist holds a permit issued by the board for the procedure being
2 performed~~[,]~~ if a permit is required; ~~[or]~~

3 (3) ~~[(C)]~~ a physician anesthesiologist ~~[licensed]~~ by
4 the Texas Medical Board; or

5 (4) a dental hygienist, only if:

6 (A) the procedure is the administration of a
7 local anesthetic agent under Section 262.002(a)(6);

8 (B) the dental hygienist has passed a
9 certification examination approved by the board; and

10 (C) the dental hygienist:

11 (i) has completed a course approved by the
12 board to train dental hygienists to administer local anesthetic
13 agents; or

14 (ii) has been licensed in good standing
15 within the preceding year to administer local anesthetic agents:

16 (a) by a branch of the United States
17 armed forces; or

18 (b) by another state.

19 SECTION 2.02. Section 262.002(a), Occupations Code, is
20 amended to read as follows:

21 (a) A person practices dental hygiene if the person:

22 (1) removes accumulated matter, tartar, deposits,
23 accretions, or stains, other than mottled enamel stains, from the
24 natural and restored surface of exposed human teeth and
25 restorations in the human mouth;

26 (2) smoothes roughened root surfaces;

27 (3) polishes exposed human teeth, restorations in the

1 human mouth, or roughened root surfaces;

2 (4) topically applies drugs to the surface tissues of
3 the human mouth or the exposed surface of human teeth;

4 (5) makes dental x-rays; ~~and~~

5 (6) administers intraoral block or infiltration
6 anesthesia under the authorization and direct supervision of a
7 dentist; and

8 (7) performs any other service, task, or procedure
9 prescribed by board rule.

10 SECTION 2.03. (a) Not later than January 1, 2022, the State
11 Board of Dental Examiners shall:

12 (1) prescribe by rule the requirements for a course to
13 train dental hygienists to administer local anesthetic agents; and

14 (2) develop a procedure for the approval of courses
15 described by Subdivision (1) of this subsection.

16 (b) A rule adopted under Subsection (a) of this section must
17 require that a course be offered in a classroom setting at an
18 educational institution accredited by the Commission on Dental
19 Accreditation of the American Dental Association.

20 ARTICLE 3. OPTOMETRISTS AND THERAPEUTIC OPTOMETRISTS

21 SECTION 3.01. Section 351.002(7), Occupations Code, is
22 amended to read as follows:

23 (7) "Practice of therapeutic optometry" means using
24 objective or subjective means, ~~not~~ including surgery, except as
25 prohibited by Section 351.4521 ~~[or laser surgery]~~, to:

26 (A) determine or measure the powers of vision of
27 the human eye as provided by Section 351.355;

1 (B) examine or diagnose visual defects, abnormal
2 conditions, or diseases of the human eye or adnexa;

3 (C) prescribe or fit lenses or prisms to correct
4 or remedy a defect or abnormal condition of vision as provided by
5 Section 351.356;

6 (D) administer or prescribe a drug or physical
7 treatment in the manner authorized by this chapter; or

8 (E) treat the visual system, including the eye or
9 adnexa as authorized by this chapter.

10 SECTION 3.02. The heading to Section 351.151, Occupations
11 Code, is amended to read as follows:

12 Sec. 351.151. RULES; INTERPRETATION OF CHAPTER AND RULES.

13 SECTION 3.03. Section 351.151, Occupations Code, is amended
14 by adding Subsection (c) to read as follows:

15 (c) The board may provide an interpretation of a provision
16 of this chapter or a rule adopted under this chapter, including by
17 issuing an advisory opinion or declaratory ruling.

18 SECTION 3.04. Subchapter D, Chapter 351, Occupations Code,
19 is amended by adding Section 351.170 to read as follows:

20 Sec. 351.170. SOLE AUTHORITY OVER PRACTICE OF OPTOMETRY.

21 The board has sole authority to regulate optometrists and
22 therapeutic optometrists and to determine the scope of practice of
23 an optometrist or therapeutic optometrist.

24 SECTION 3.05. Section 351.358, Occupations Code, is amended
25 by amending Subsections (b) and (c) and adding Subsection (f) to
26 read as follows:

27 (b) A therapeutic optometrist may[+]

1 ~~[(1)]~~ administer, perform, or prescribe ophthalmic
2 devices, procedures, and appropriate medications administered by
3 any ~~[topical or oral]~~ means~~[, in accordance with this section and~~
4 ~~Section 351.3581,~~] to diagnose or treat visual defects, abnormal
5 conditions, or diseases of the human vision system, including the
6 eye and adnexa~~[, or~~

7 ~~[(2) administer medication by parenteral means for a~~
8 ~~purpose and in a manner prescribed by Subsection (e)].~~

9 (c) A therapeutic optometrist may prescribe not more than
10 ~~[oral medications only in the following classifications of oral~~
11 ~~pharmaceuticals]:~~

- 12 (1) ~~[one 10-day supply of oral antibiotics,~~
13 ~~[(2) one 72-hour supply of oral antihistamines,~~
14 ~~[(3) one seven-day supply of oral nonsteroidal~~
15 ~~anti-inflammatories,~~

16 ~~[(4)]~~ one three-day supply of any medication
17 classified as a controlled substance under Schedule ~~[analgesic~~
18 ~~identified in Schedules]~~ III, IV, or ~~[and]~~ V of 21 U.S.C. Section
19 812; and

20 (2) one three-day supply of hydrocodone or a
21 hydrocodone combination medication classified as a controlled
22 substance under Schedule II of 21 U.S.C. Section 812 ~~[(5) any~~
23 ~~other oral pharmaceutical recommended by the Optometric Health Care~~
24 ~~Advisory Committee and approved by the board and the Texas State~~
25 ~~Board of Medical Examiners].~~

26 (f) A therapeutic optometrist may administer, perform,
27 prescribe, or order diagnostic studies, analyses, tests, imaging

1 studies, or laboratory tests necessary to diagnose or treat visual
2 defects, abnormal conditions, or diseases of the human vision
3 system, including the eye and adnexa.

4 SECTION 3.06. The heading to Section 351.3581, Occupations
5 Code, is amended to read as follows:

6 Sec. 351.3581. [~~DIAGNOSIS AND~~] TREATMENT OF GLAUCOMA.

7 SECTION 3.07. Section 351.3581(a), Occupations Code, is
8 amended to read as follows:

9 (a) A therapeutic optometrist may not administer or
10 prescribe an oral or parenteral medication or treat glaucoma unless
11 the therapeutic optometrist holds a certificate issued by the
12 board. A therapeutic optometrist certified under this section
13 [~~subsection~~] shall be known as an optometric glaucoma specialist.
14 To obtain a certificate, a therapeutic optometrist must [~~as~~
15 ~~required under Section 351.165(c)~~]:

16 (1) complete an instructional clinical review course;

17 and

18 (2) pass an examination approved by the board.

19 SECTION 3.08. Subchapter H, Chapter 351, Occupations Code,
20 is amended by adding Section 351.3582 to read as follows:

21 Sec. 351.3582. CERTAIN SURGICAL PROCEDURES: CERTIFICATE
22 REQUIRED. A therapeutic optometrist may not perform a surgical
23 procedure described by Section 351.4521(b) unless the therapeutic
24 optometrist holds a certificate issued by the board. To obtain a
25 certificate, a therapeutic optometrist must:

26 (1) complete an instructional clinical review course;

27 and

1 (2) pass an examination approved by the board.

2 SECTION 3.09. Section 351.4521, Occupations Code, is
3 amended to read as follows:

4 Sec. 351.4521. PERFORMANCE OF CERTAIN SURGICAL PROCEDURES
5 BY THERAPEUTIC OPTOMETRISTS [~~SURGERY~~] PROHIBITED. (a) A
6 therapeutic optometrist may not perform the following surgical
7 procedures:

8 (1) retinal laser procedures;

9 (2) laser-assisted in situ keratomileusis (LASIK),
10 photorefractive keratectomy (PRK), or laser epithelial
11 keratomileusis (LASEK);

12 (3) penetrating keratoplasty, corneal transplant, or
13 lamellar keratoplasty;

14 (4) a surgical procedure that requires the
15 administration of general anesthesia;

16 (5) intraocular injection;

17 (6) a surgical procedure relating to the removal of
18 the eye from a living person;

19 (7) surgical intraocular implants;

20 (8) surgery of the eyelid for a suspected eyelid
21 malignancy;

22 (9) tarsorrhaphy;

23 (10) surgery of the bony orbit, including orbital
24 implants; and

25 (11) retrobulbar injection or injection into the
26 extraocular orbital space.

27 (b) A therapeutic optometrist may not perform the following

1 surgical procedures unless the therapeutic optometrist holds a
2 certificate under Section 351.3582 and the procedure is performed
3 using laser or any form of ionizing or non-ionizing radiation:

4 (1) a surgical procedure requiring full-thickness
5 incision or excision of the cornea or sclera other than
6 paracentesis in an emergency situation requiring immediate
7 reduction of the pressure inside of the eye;

8 (2) a surgical procedure requiring incision or
9 excision of the iris and ciliary body;

10 (3) a surgical procedure requiring incision or
11 excision of the vitreous;

12 (4) a surgical procedure requiring incision or
13 excision of the retina;

14 (5) a surgical procedure requiring incision or
15 excision of the crystalline lens;

16 (6) a surgical procedure requiring incision or
17 excision of the extraocular muscles;

18 (7) the incisional or excisional repair of
19 blepharochalasis, dermatochalasis, or ptosis;

20 (8) a surgical procedure requiring incision or
21 excision of the lacrimal system other than lacrimal probing and
22 related procedures;

23 (9) a surgical procedure requiring conjunctivoplasty
24 with graft or flap; and

25 (10) a surgical procedure requiring incision or
26 excision of pterygium [~~surgery or laser surgery~~].

27 (c) This section does not:

1 (1) prevent a therapeutic optometrist from providing
2 preoperative or postoperative care relating to a surgical procedure
3 listed in Subsection (a) or (b); or

4 (2) limit the use of a diagnostic or therapeutic
5 instrument necessary to perform surgical treatments or procedures
6 to the eye or adnexa except for those treatments or procedures
7 specifically prohibited by this section.

8 SECTION 3.10. Section 453.001(9), Occupations Code, is
9 amended to read as follows:

10 (9) "Referring practitioner" means a qualified
11 licensed health care professional who, within the scope of
12 professional licensure, may refer a person for health care
13 services. The term includes:

14 (A) a physician licensed to practice medicine by
15 a state board of medical examiners;

16 (B) a dentist licensed by a state board of dental
17 examiners;

18 (C) a chiropractor licensed by a state board of
19 chiropractic examiners; ~~and~~

20 (D) a podiatrist licensed by a state board of
21 podiatric medical examiners; and

22 (E) an optometrist or therapeutic optometrist
23 licensed by a state board of optometry.

24 SECTION 3.11. Section 454.213(b), Occupations Code, is
25 amended to read as follows:

26 (b) Implementation of direct occupational therapy to a
27 person for a specific health care condition must be based on a

1 referral from:

2 (1) a physician licensed by a state board of medical
3 examiners;

4 (2) a dentist licensed by a state board of dental
5 examiners;

6 (3) a chiropractor licensed by a state board of
7 chiropractic examiners;

8 (4) a podiatrist licensed by a state board of
9 podiatric medical examiners; ~~[or]~~

10 (5) an optometrist or therapeutic optometrist
11 licensed by a state board of optometry; or

12 (6) another qualified, licensed health care
13 professional who is authorized to refer for health care services
14 within the scope of the professional's license.

15 SECTION 3.12. Not later than December 1, 2021, the Texas
16 Optometry Board shall adopt rules necessary to implement the
17 changes in law made by this Act to Chapter 351, Occupations Code.

18 SECTION 3.13. The following provisions of the Occupations
19 Code are repealed:

20 (1) Section 351.160;

21 (2) Section 351.358(d); and

22 (3) Sections 351.3581(b), (c), (d), (e), (f), (g),
23 (h), (i), and (j).

24 ARTICLE 4. EFFECTIVE DATE

25 SECTION 4.01. This Act takes effect September 1, 2021.