

By: Nelson

S.B. No. 406

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the delegation and supervision of prescriptive
3 authority by physicians to certain advanced practice registered
4 nurses and physician assistants.

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

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

8 SUBCHAPTER B. DELEGATION TO ADVANCED PRACTICE REGISTERED NURSES
9 AND PHYSICIAN ASSISTANTS

10 SECTION 2. Section 157.051, Occupations Code, is amended to
11 read as follows:

12 (1) "Advanced practice registered nurse" has the
13 meaning assigned to that term by Section 301.152. The term includes
14 an advanced nurse practitioner and advanced practice nurse.

15 ~~(2) "Carrying out or signing a prescription drug~~
16 ~~order" means completing a prescription drug order presigned by the~~
17 ~~delegating physician, or the signing of a prescription by a~~
18 ~~registered nurse or physician assistant.~~

19 (2-a) "Controlled substance" has the meaning assigned
20 to that term by Section 481.002, Health and Safety Code.

21 (2-b~~3~~) "Dangerous drug" has the meaning assigned to
22 that term by Section 483.001, Health and Safety Code.

23 (2-c~~4~~) "Health professional shortage area" means:

24 (A) an urban or rural area of this state that:

1 (i) is not required to conform to the
2 geographic boundaries of a political subdivision but is a rational
3 area for the delivery of health service;

4 (ii) the secretary of health and human
5 services determines has a health professional shortage; and

6 (iii) is not reasonably accessible to an
7 adequately served area;

8 (B) a population group that the secretary of
9 health and human services determines has a health professional
10 shortage; or

11 (C) a public or nonprofit private medical
12 facility or other facility that the secretary of health and human
13 services determines has a health professional shortage, as
14 described by 42 U.S.C. Section 254e(a)(1).

15 (5) "Hospital" means:

16 (A) a general hospital or a special hospital, as
17 those
18 terms are defined by Section 241.003, including a hospital
19 maintained or operated by this state; or

20 (B) a mental hospital licensed under Chapter 577.

21 (6) "Medication order" has the meaning assigned by
22 Sections 551.003(24), Occupations Code and 481.002(28), Health and
23 Safety Code.

24 (7) "Nonprescription drug" has the meaning assigned by
25 Section 551.003(25).

26 (38) "Physician assistant" means a person who holds a
27 license issued under Chapter 204.

1 (9) "Physician group practice" means an entity for
2 which two or more physicians deliver health care to the public
3 through the practice of medicine on a regular basis and that is:

4 (A) owned and operated by two or more physicians;

5 or

6 (B) a freestanding clinic, center, or office of a
7 nonprofit health organization certified by the board under Section
8 162.001(b) that complies with the requirements of Chapter 162.

9 (10) "Practice serving a medically underserved
10 population" means:

11 (A) a practice in a health professional shortage
12 area;

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

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

18 (D) a clinic designated as a federally qualified
19 health clinic under 42 U.S.C. Section 1396d(1)(2)(B); or

20 (E) a practice:

21 (i) that is either:

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

26 or

27 (b) a practice that the Texas

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

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

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

14 (11) "Prescribe or order a drug or device" means
15 prescribing or ordering a drug or device, including the issuing of a
16 "prescription drug order" or a "medication order."

17 (12) "Prescription drug" has the meaning assigned by
18 Section 551.003(36).

19 (13) "Prescriptive authority agreement" means an
20 agreement entered into by a physician and an advanced practice
21 registered nurse or physician assistant through which the physician
22 delegates to the advanced practice registered nurse or physician
23 assistant the act of prescribing or ordering a drug or device.

24 SECTION 3. Sections 157.0511(a), (b) and (b-1), Occupations
25 Code, are amended, and a new Section (b-1) is added, to read as
26 follows:

27 (a) A physician's authority to delegate the ~~carrying out or~~

1 ~~signing of a prescription drug order~~ prescribing and ordering of a
2 drug or device under this subchapter is limited to:

- 3 (1) non prescription drugs;
- 4 (2) dangerous drugs; and
- 5 (3) controlled substances to the extent provided by
6 Subsection (b) and (b-1).

7 (b) Except as provided in (b-1), a ~~A~~ physician may delegate
8 the ~~carrying out or signing of a prescription drug order~~
9 prescribing or ordering of a drug or device for a controlled
10 substance only if:

11 (1) the prescription is for a controlled substance
12 listed in Schedule III, IV, or V as established by the commissioner
13 of State Health Services under Chapter 481, Health and Safety Code;

14 (2) the prescription, including a refill of the
15 prescription, is for a period not to exceed 90 days;

16 (3) with regard to the refill of a prescription, the
17 refill is authorized after consultation with the delegating
18 physician and the consultation is noted in the patient's chart; and

19 (4) with regard to a prescription for a child less than
20 two years of age, the prescription is made after consultation with
21 the delegating physician and the consultation is noted in the
22 patient's chart.

23 (b-1) A physician may delegate the prescribing or ordering
24 of a controlled substance listed in Schedule II as established by
25 the commissioner of state health services under Chapter 481, Health
26 and Safety Code only:

27 (1) in a hospital facility-based practice under

1 Section 157.054 and in accordance with policies approved by the
2 facility's medical staff or a committee of the facility's medical
3 staff as provided by the facility bylaws to ensure patient safety;
4 or

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

9 (b-~~1~~2) The board shall adopt rules that require a physician
10 who delegates the prescribing or ordering of a drug or device
11 ~~carrying out or signing of a prescription drug order~~ [under this
12 ~~subchapter~~] to register with the board the name and license number
13 of the physician assistant or advanced practice registered nurse to
14 whom a delegation is made. The board may develop and use an
15 electronic online delegation registration process for registration
16 under this subsection.

17 SECTION 4. Subchapter B, Chapter 157, Occupations Code, is
18 amended by adding Sections 157.0512, 157.0513, and 157.0514 to read
19 as follows:

20 Sec. 157.0512. PRESCRIPTIVE AUTHORITY AGREEMENT.

21 (a) A physician may delegate to an advanced practice
22 registered nurse or physician assistant, acting under adequate
23 physician supervision, the act of prescribing or ordering a drug or
24 device as authorized through a prescriptive authority agreement
25 between the physician and the advanced practice registered nurse or
26 physician assistant, as applicable.

27 (b) A physician and an advanced practice registered nurse or

1 physician assistant are eligible to enter into or be a party to a
2 prescriptive authority agreement only if:

3 (1) the Texas Board of Nursing has approved the
4 advanced practice registered nurse's authority to prescribe or
5 order a drug or device as authorized in this Chapter this
6 Subchapter;

7 (2) the advanced practice registered nurse or
8 physician assistant:

9 (A) holds an active license to practice in this
10 state as a registered nurse or physician assistant, as applicable,
11 and is in good standing in this state; and

12 (B) is not currently prohibited by the Texas
13 Board of Nursing or Texas Board of Physician Assistants, as
14 applicable, from executing a prescriptive authority agreement; and

15 (3) prior to executing a prescriptive authority
16 agreement, an advanced practice registered nurse, physician
17 assistant, and physician must disclose to the other prospective
18 party any prior disciplinary action by the board, Texas Board of
19 Nursing, or Texas Board of Physician Assistants, as applicable.

20 (c) Except as provided in Subsection (d), the combined
21 number of advanced practice registered nurses and physician
22 assistants with whom a physician may enter into a prescriptive
23 authority agreement may not exceed seven advanced practice
24 registered nurses and physician assistants or the full-time
25 equivalent of seven advanced practice registered nurses and
26 physician assistants.

27 (d) Subsection (c) does not apply to a prescriptive authority

1 agreement if the prescriptive authority is being exercised in:

2 (1) a practice serving a medically underserved
3 population; or

4 (2) a hospital facility-based practice in a hospital
5 under Section 157.054.

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

7 (1) be in writing and signed and dated by the parties
8 to the agreement;

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

11 (3) state the nature of the practice, practice
12 locations, or practice settings;

13 (4) identify the types or categories of drugs or
14 devices that may be prescribed or the types or categories of drugs
15 or devices that may not be prescribed;

16 (5) provide a general plan for addressing consultation
17 and referral;

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

19 (7) state the general process for communication and
20 sharing of information between the physician and an advanced
21 practice registered nurse or physician assistant to whom the
22 physician has delegated prescriptive authority related to the care
23 and treatment of patients.

24 (8) if alternate physician supervision is to be
25 utilized, designate one or more alternate physicians who may
26 provide appropriate supervision on a temporary basis in accordance
27 with the requirements established by the prescriptive authority

1 agreement and the requirements of this Subchapter and who may
2 participate in the prescriptive authority quality assurance and
3 improvement plan meetings required under this Section; and

4 (9) describe a prescriptive authority quality
5 assurance and improvement plan and specify methods for documenting
6 the implementation of the plan that includes the following:

7 (A) chart review with the number of charts
8 reviewed determined by the physician and advanced practice
9 registered nurse or physician assistant;

10 (B) periodic face-to-face meetings of the
11 advanced practice registered nurse or physician assistant with the
12 physician at a location determined by the physician and advanced
13 practice registered nurse or physician assistant. The meetings
14 shall include:

15 (i) sharing of information relating to
16 patients' treatment and care, needed changes in patient care plans,
17 and issues relating to referrals; and

18 (ii) discussion of patient care
19 improvement.

20 (C) The periodic face-to-face meetings described
21 in (9)(B) shall be documented and occur:

22 (i)(a) no less frequently than monthly for
23 three years beginning on the date of execution of the agreement; and

24 (b) no less frequently than quarterly
25 after three years with monthly meetings held between the quarterly
26 meetings by means of a remote electronic communications system,
27 including videoconferencing technology or the Internet; or

1 (ii) if during the seven year period
2 immediately preceding execution of the prescriptive authority
3 agreement, the advanced practice registered nurse or physician
4 assistant was in practice for at least five years that included the
5 exercise of prescriptive authority with required physician
6 supervision:

7 (a) no less frequently than monthly for one
8 year beginning on the date of execution of the agreement; and (b) no
9 less frequently than quarterly after one year with monthly meetings
10 held between the quarterly meetings by means of a remote electronic
11 communications system, including videoconferencing technology or
12 the Internet.

13 (f) The prescriptive authority agreement may include other
14 provisions agreed to by the physician and advanced practice
15 registered nurse or physician assistant.

16 (g) If the parties to the prescriptive authority agreement
17 practice in a physician group practice, the physician may appoint
18 one or more alternate supervising physicians designated under
19 (E)(8) of this Section, if any, to conduct and document the quality
20 assurance meeting in accordance with the requirements of this
21 Subchapter.

22 (h) The prescriptive authority agreement need not describe
23 the exact steps that an advanced practice registered nurse or
24 physician assistant must take with respect to each specific
25 condition, disease, or symptom.

26 (i) A physician, advanced practice registered nurse, or
27 physician assistant who is a party to a prescriptive authority

1 agreement must retain a copy of the agreement until the second
2 anniversary of the date the agreement is terminated.

3 (j) A party to a prescriptive authority agreement may not by
4 contract waive, void, or nullify any provision of this section or
5 Section 157.0513.

6 (k) In the event a party to a prescriptive authority
7 agreement is notified that he or she has become the subject of an
8 investigation by the board, Texas Board of Nursing, or Texas Board
9 of Physician Assistants, the individual must immediately notify the
10 other party to the prescriptive authority agreement.

11 (l) The prescriptive authority agreement and any amendments
12 must be reviewed at least annually, dated, and signed by the parties
13 to the agreement, and made available to the board, Texas Board of
14 Nursing, or Texas Board of Physician Assistants within three
15 business days of receipt of request, if any.

16 (m) The prescriptive authority agreement should promote the
17 exercise of professional judgment by the advanced practice
18 registered nurse or physician assistant commensurate with the
19 advanced practice registered nurse's or physician assistant's
20 education and experience and the relationship between the advanced
21 practice registered nurse or physician assistant and physician.

22 (n) This section shall be liberally construed to allow the
23 use of prescriptive authority agreements to safely and effectively
24 utilize the skills and services of advanced practice registered
25 nurses and physician assistants.

26 (o) The board may not adopt rules pertaining to the elements
27 of the prescriptive authority agreement that would impose

1 requirements in addition to those required under this Section. The
2 board, Texas Board of Nursing, and Texas Board of Physician
3 Assistants will jointly develop Frequently Asked Questions (FAQs)
4 by January 2014.

5 SECTION 5. Sec. 157.0513. PRESCRIPTIVE AUTHORITY
6 AGREEMENT: INFORMATION.

7 (a) The board shall jointly with the Texas Board of Nursing
8 and the Texas Physician Assistant Board develop a process:

9 (1) to exchange information regarding the names,
10 locations, and license numbers of each physician, advanced practice
11 registered nurse, and physician assistant who has entered into a
12 prescriptive authority agreement;

13 (2) by which each board shall immediately notify the
14 other boards when one of its licensees becomes the subject of an
15 investigation involving the delegation and supervision of
16 prescriptive authority, as well as the final disposition of any
17 such investigation; and

18 (3) for each board to maintain and share a list of its
19 licensees who have been subject to a final adverse disciplinary
20 action for an act involving the delegation and supervision of
21 prescriptive authority.

22 (b) The board, Texas Board of Nursing, or Texas Physician
23 Assistant Board may use a notice received under Section (a)(2) to
24 open an investigation against a licensee who is a party to a
25 prescriptive authority agreement with the licensee who is under
26 investigation by the board which provided notice under Section
27 (a)(2).

1 (c) The board shall maintain and make available to the
2 public an online searchable list of physician, advanced practice
3 registered nurses, and physician assistants who have entered into a
4 prescriptive authority agreement authorized under Section 157.0512
5 and identify the physician with whom each advanced practice
6 registered nurse and physician assistant has entered into an
7 agreement.

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

14 SECTION 6. Sec. 157.0514. PRESCRIPTIVE AUTHORITY
15 AGREEMENT: INSPECTIONS. If the board is notified under Section
16 157.0513(a)(2), the board or an authorized board representative may
17 enter, with reasonable notice and at a reasonable time, unless the
18 notice would jeopardize an investigation, a site where a party to a
19 prescriptive authority agreement practices to inspect and audit any
20 records or activities relating to the implementation and operation
21 of the agreement. To the extent reasonably possible, the board and
22 the board's authorized representative shall conduct any inspection
23 or audit under this subsection in a manner that minimizes
24 disruption to the delivery of patient care.

25 SECTION 7. Section 157.054, Occupations Code, is amended to
26 read as follows:

27 Sec. 157.054. PRESCRIBING AT FACILITY-BASED PRACTICE

1 SITES. (a) One or more physicians licensed by the board may
2 delegate, to one or more physician assistants or advanced practice
3 registered nurses acting under adequate physician supervision
4 whose practice is facility-based at a ~~licensed~~ hospital as defined
5 under Section 157.051 or licensed long-term care facility, the
6 administration or provision of a drug and the ~~carrying out or~~
7 ~~signing of a prescription drug order~~ prescribing or ordering of a
8 drug or device if the physician is:

9 (1) the medical director or chief of medical staff of
10 the facility in which the physician assistant or advanced practice
11 registered nurse practices;

12 (2) the chair of the facility's credentialing
13 committee;

14 (3) a department chair of a facility department in
15 which the physician assistant or advanced practice nurse practices;
16 or

17 (4) one or more physicians who consent to the request
18 of the medical director or chief of medical staff to delegate the
19 ~~carrying out or signing of a prescription drug order~~ prescribing or
20 ordering of a drug or device at the facility in which the physician
21 assistant or advanced practice nurse practices.

22 (a-1) The limits on the number of Advanced Practice
23 Registered Nurses or Physician Assistants to whom a physician may
24 delegate under Section 157.0512 do not apply to a physician under
25 (a)(4) whose practice is facility-based under this Section,
26 provided that the physician is not delegating in a freestanding
27 clinic, center, or practice of the facility.

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

3 (1) the delegation must be made under a physician's
4 order, standing medical order, standing delegation order, or
5 another order or protocol developed in accordance with policies
6 approved by the facility's medical staff or a committee of the
7 facility's medical staff as provided by the facility bylaws;

8 (2) the delegation must occur in the facility in which
9 the physician is the medical director, the chief of medical staff,
10 the chair of the credentialing committee, ~~or~~ a department chair, or
11 a physician who consents to delegate under (a)(4);

12 (3) the delegation may not permit the ~~carrying out or~~
13 ~~signing of prescription drug orders~~ prescribing or ordering of a
14 drug or device for the care or treatment of the patients of any
15 other physician without the prior consent of that physician; and

16 (4) delegation in a long-term care facility must be by
17 the medical director and is limited to the ~~carrying out and signing~~
18 ~~of prescription drug orders~~ prescribing or ordering of a drug or
19 device to not more than ~~four~~ seven advanced practice nurses or
20 physician assistants or their full-time equivalents. ~~and~~

21 ~~(5) a facility based physician may not delegate at~~
22 ~~more than one licensed hospital or more than two long-term care~~
23 ~~facilities unless approved by the board.~~

24 (c) Physician supervision of the ~~carrying out and signing of~~
25 ~~prescription drug orders~~ prescribing or ordering of a drug or
26 device must conform to what a reasonable, prudent physician would
27 find consistent with sound medical judgment but may vary with the

1 education and experience of the particular advanced practice
2 registered nurse or physician assistant. A physician shall provide
3 continuous supervision, but the constant physical presence of the
4 physician is not required.

5 (d) An alternate physician may provide appropriate
6 supervision on a temporary basis as defined and established by
7 board rule.

8 SECTION 8. Section 156.056(a) and (b), Occupations Code,
9 are amended to read as follows:

10 (a) In this section, "~~site~~ practice serving a medically
11 underserved population" has the meaning assigned by Section 157.051
12 ~~157.052~~.

13 (b) The board by rule shall permit a license holder to
14 complete half of any informal continuing medical education hours
15 required under this subchapter by providing volunteer medical
16 services at a ~~site~~ practice serving a medically underserved
17 population other than a site that is a primary practice site of the
18 license holder.

19 SECTION 9. Section 157.057, Occupations Code, is amended to
20 read as follows:

21 Sec. 157.057. ADDITIONAL IMPLEMENTATION METHODS. The board
22 may adopt additional methods to implement:

23 (1) a physician's prescription; or

24 (2) the delegation of prescriptive authority ~~the~~
25 ~~signing of a prescription under a physician's order, standing~~
26 ~~medical order, standing delegation order, or other order or~~
27 ~~protocol~~.

1 SECTION 10. Sec. 157.059. DELEGATION REGARDING CERTAIN
2 OBSTETRICAL SERVICES.

3 (a) In this section, "provide" means to supply, for a term
4 not to exceed 48 hours, one or more unit doses of a controlled
5 substance for the immediate needs of a patient.

6 (b) A physician may delegate to a physician assistant
7 offering obstetrical services and certified by the board as
8 specializing in obstetrics or an advanced practice registered
9 nurse recognized by the Texas Board of Nursing as a nurse midwife
10 the act of administering or providing controlled substances to the
11 physician assistant's or nurse midwife's clients during intrapartum
12 and immediate postpartum care.

13 (c) The physician may not delegate:

14 (1) the use of a prescription sticker or the use or
15 issuance of an official prescription form; or

16 (2) the authority to issue an electronic prescription
17 under Section 481.075, Health and Safety Code.

18 (d) The delegation of authority to administer or provide
19 controlled substances under Subsection (b) must be under a
20 physician's order, medical order, standing delegation order,
21 prescriptive authority agreement, or protocol that requires
22 adequate and documented availability for access to medical care.

23 (e) The physician's orders, medical orders, standing
24 delegation orders, or protocols must require the reporting of or
25 monitoring of each client's progress, including complications of
26 pregnancy and delivery and the administration and provision of
27 controlled substances by the nurse midwife or physician assistant

1 to the clients of the nurse midwife or physician assistant.

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

4 (1) ~~four~~ seven nurse midwives or physician assistants
5 or their full-time equivalents; and

6 (2) the designated facility at which the nurse midwife
7 or physician assistant provides care.

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

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

12 (2) the drug to be provided;

13 (3) the name, address, and telephone number of the
14 physician;

15 (4) the name, address, and telephone number of the
16 nurse midwife or physician assistant; and

17 (5) the date.

18 (h) This section does not authorize a physician, physician
19 assistant, or nurse midwife to operate a retail pharmacy as defined
20 under Subtitle J.

21 (i) This section authorizes a physician to delegate the act
22 of administering or providing a controlled substance to a nurse
23 midwife or physician assistant but does not require physician
24 delegation of:

25 (1) further acts to a nurse midwife; or

26 (2) the administration of medications by a physician
27 assistant or registered nurse other than as provided by this

1 section.

2 (j) This section does not limit the authority of a physician
3 to delegate the ~~carrying out or signing of a prescription drug order~~
4 ~~involving~~ the prescribing or ordering a controlled substance under
5 this subchapter.

6 SECTION 11. Section 157.060, Occupations Code, is amended
7 to read as follows:

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

19 SECTION 12. Section 204.1565(a) and (b), Occupations Code,
20 are amended to read as follows:

21 (a) In this section, "~~site~~ practice serving a medically
22 underserved population" has the meaning assigned by Section
23 157.051. 157.052.

24 (b) The physician assistant board by rule shall permit a
25 license holder to complete half of any informal continuing medical
26 education hours required to renew a license under this chapter by
27 providing volunteer medical services at a ~~site~~ practice serving a

1 medically underserved population, other than a site that is a
2 primary practice site of the license holder.

3 SECTION 13. Section 204.202(b), Occupations Code, is
4 amended to read as follows:

5 (b) Medical services provided by a physician assistant may
6 include:

7 (1) obtaining patient histories and performing
8 physical examinations;

9 (2) ordering or performing diagnostic and therapeutic
10 procedures;

11 (3) formulating a working diagnosis;

12 (4) developing and implementing a treatment plan;

13 (5) monitoring the effectiveness of therapeutic
14 interventions;

15 (6) assisting at surgery;

16 (7) offering counseling and education to meet patient
17 needs;

18 (8) requesting, receiving, and signing for the receipt
19 of pharmaceutical sample prescription medications and distributing
20 the samples to patients in a specific practice setting in which the
21 physician assistant is authorized to prescribe pharmaceutical
22 medications and sign prescription drug orders as provided by
23 Section 157.0512 [~~157.052, 157.053~~], or 157.054, [~~157.0541~~] ~~or~~
24 ~~157.0542~~ [~~or as otherwise authorized by physician assistant board~~
25 ~~rule~~];

26 (9) ~~signing or completing a prescription~~ prescribing
27 or ordering a drug or device as provided by Subchapter B, Chapter

1 157; and

2 (10) making appropriate referrals.

3 SECTION 14. Section 301.002(2), Occupations Code, is
4 amended to read as follows:

5 (2) "Professional nursing" means the performance of an
6 act that requires substantial specialized judgment and skill, the
7 proper performance of which is based on knowledge and application
8 of the principles of biological, physical, and social science as
9 acquired by a completed course in an approved school of
10 professional nursing. The term does not include acts of medical
11 diagnosis or the prescription of therapeutic or corrective
12 measures. Professional nursing involves:

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

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

19 (C) the administration of a medication or
20 treatment as ordered by a physician, podiatrist, or dentist;

21 (D) the supervision or teaching of nursing;

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

24 (F) the requesting, receiving, signing for, and
25 distribution of prescription drug samples to patients at ~~sites in~~
26 practices at which an advanced practice registered nurse is
27 authorized to sign prescription drug orders or a medication order

1 as provided by Subchapter B, Chapter 157;

2 (G) the performance of an act delegated by a
3 physician under Section 157.0512 [~~157.052, 157.053~~], 157.054,
4 [~~157.0541, 157.0542~~], 157.058, or 157.059; and

5 (H) the development of the nursing care plan.

6 SECTION 15. Section 301.152 (a) and (b), Occupations Code,
7 are amended to read as follows:

8 (a) In this section, "advanced practice registered nurse"
9 means a registered nurse ~~approved~~ licensed by the board to practice
10 as an advanced practice registered nurse on the basis of completion
11 of an advanced educational program. The term includes a nurse
12 practitioner, nurse midwife, nurse anesthetist, and clinical nurse
13 specialist. The term is synonymous with "advanced nurse
14 practitioner" and "advanced practice nurse."

15 (b) The board shall adopt rules to:

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

18 (~~1~~2) establish:

19 (A) any specialized education or training,
20 including pharmacology, that an advanced practice registered nurse
21 must have to ~~carry out a prescription drug order~~ prescribe or order
22 a drug or device as delegated by a physician under Section 157.0512,
23 or 157.054, or 157.0542 [Section 157.052]; and

24 (B) a system for:

25 (i) approving an advanced practice
26 registered nurse to prescribe and order a drug or device as
27 delegated by a physician under Section 157.0512 or 157.054 upon the

1 ~~providing of assigning an identification number to a registered~~
2 ~~nurse who provides the board with~~ evidence of completing the
3 specialized education and training requirement under Subdivision
4 ~~(1)(A); and~~

5 (ii) issuing a prescription authorization
6 number to advanced practice registered nurses approved under (i).

7 (3) renew the license issued under (1) and the
8 approval granted under (2)(B) concurrently with renewal of the
9 advanced practice registered nurse's professional nursing license
10 under Section 301.301.

11 ~~(2) approve a registered nurse as an advanced~~
12 ~~registered practice nurse; and~~

13 ~~(3) initially approve and biennially renew an advanced~~
14 ~~practice registered nurse's authority to carry out or sign a~~
15 ~~prescription drug order under Chapter 157.~~

16 (c) At a minimum, the rules adopted under Subsection (b) (~~3~~
17 2) must:

18 (1) require completion of pharmacology and related
19 ~~pathology~~ pathophysiology education for initial approval; and

20 (2) require continuing education in clinical
21 pharmacology and related ~~pathology~~ pathophysiology in addition to
22 any continuing education otherwise required under Section
23 301.303. ~~and~~

24 ~~(3) provide for the issuance of a prescription~~
25 ~~authorization number to an advanced practice nurse approved under~~
26 ~~this section.~~

27 (d) The signature of an advanced practice registered nurse

1 attesting to the provision of a legally authorized service by the
2 advanced practice registered nurse satisfies any documentation
3 requirement for that service established by a state agency.

4 SECTION 16. Sections 551.003(34) and (45), Occupations
5 Code, are amended to read as follows:

6 (34) "Practitioner" means:

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

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

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

22 (D) an advanced practice registered nurse or
23 physician assistant to whom a physician has delegated the authority
24 to ~~carry out or sign prescription drug orders~~ prescribe or order a
25 drug or device under Section 157.0511, 157.0512 [~~157.052, 157.053~~],
26 or 157.054, [~~157.0541,~~] ~~or 157.0542.~~

27 (45) "Written protocol" means a physician's order,

1 standing medical order, standing delegation order, or other order
2 or protocol as defined by rule of the Texas Medical [State] Board
3 [~~of Medical Examiners~~] under Subtitle B.

4 SECTION 17. Section 671.001, Government Code, is amended by
5 amending Subsection (b) and adding Subsection (b-1) to read as
6 follows:

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

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

13 (2) a licensed physician, who is employed by a state
14 governmental entity for purposes other than the pilot program or
15 whose services are acquired by contract, who will delegate to and
16 supervise the advanced practice registered nurse or physician
17 assistant pursuant to a prescriptive authority agreement under
18 Chapter 157, Occupations Code. [~~perform all supervisory functions~~
19 ~~described by Section 157.052(e), Occupations Code~~];

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

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

27 SECTION 18. Section 481.002(39), Health and Safety Code, is

1 amended to read as follows:

2 (39) "Practitioner" means:

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

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

14 (C) a person practicing in and licensed by
15 another state as a physician, dentist, veterinarian, or podiatrist,
16 having a current Federal Drug Enforcement Administration
17 registration number, who may legally prescribe Schedule II, III,
18 IV, or V controlled substances in that state; or

19 (D) an advanced practice registered nurse or
20 physician assistant to whom a physician has delegated the authority
21 to ~~carry out or sign prescription drug orders~~ prescribe or order a
22 drug or device under Section 157.0511, 157.0512 [~~157.052, 157.053~~],
23 or 157.054, [~~157.0541~~] ~~or 157.0542~~, Occupations Code.

24 SECTION 19. Section 483.001(12), Health and Safety Code, is
25 amended to read as follows:

26 (12) "Practitioner" means [~~a person licensed~~]:

27 (A) a person licensed by the Texas [~~State Board~~

1 ~~of~~] Medical Board [~~Examiners~~], State Board of Dental Examiners,
2 Texas State Board of Podiatric Medical Examiners, Texas Optometry
3 Board, or State Board of Veterinary Medical Examiners to prescribe
4 and administer dangerous drugs;

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

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

11 (D) an advanced practice registered nurse or
12 physician assistant to whom a physician has delegated the authority
13 to ~~carry out or sign prescription drug orders~~ prescribe or order a
14 drug or device under Section 157.0511, 157.0512 [~~157.052, 157.053~~],
15 or 157.054, [~~157.0541,~~] ~~or 157.0542~~, Occupations Code.

16 SECTION 20. Sections 157.052, 157.053, 157.0541, and
17 157.0542, Occupations Code, are repealed.

18 SECTION 21. (a) The changes in law made by this Act apply
19 only to a delegation of prescriptive authority by a physician to an
20 advanced practice registered nurse or physician assistant made or
21 amended on or after January 31, 2014. A delegation of prescriptive
22 authority made or amended before January 31, 2014, is governed by
23 the law in effect on the date the delegation was made or amended,
24 and the former law is continued in effect for that purpose.

25 (b) Any calculation under this Act requiring the amount of
26 time an advanced practice registered nurse or physician assistant
27 has practiced under the delegated prescriptive authority of a

1 physician pursuant to a prescriptive authority agreement shall
2 include the amount of time the advanced practice registered nurse
3 or physician assistant practiced under the delegated prescriptive
4 authority of that physician prior to the effective date of this Act.

5 SECTION 22. Not later than December 31, 2013, the Texas
6 Medical Board shall adopt the rules necessary to implement the
7 changes in law made by this Act.

8 SECTION 23. This Act takes effect September 1, 2013.