

A BILL TO BE ENTITLED  
AN ACT

relating to the prescriptive authority of certain psychologists;  
authorizing a fee.

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

SECTION 1. Section 501.002, Occupations Code, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "Prescription drug" and "prescription drug order" have the meanings assigned by Section 551.003.

SECTION 2. Section 501.003(a)(1), Occupations Code, is amended to read as follows:

(1) "Practice of psychology" means:

(A) the observation, description, diagnosis, evaluation, assessment, interpretation, or treatment of and intervention in human behavior by applying education, training, methods, and procedures for the purpose of:

(i) preventing, predicting, treating, remediating, or eliminating:

(a) symptomatic, maladaptive, or undesired behavior;

(b) emotional, interpersonal, learning, substance use, neuropsychological, cognitive, or behavioral disorders or disabilities, including those that accompany medical problems; or

(c) mental illness;

(ii) evaluating, assessing, or facilitating, by a license holder or a person who represents the person to the public by a title or description of services that includes the word "psychological," "psychologist," or "psychology," the enhancement of individual, group, or organizational effectiveness, including evaluating, assessing, or facilitating:

(a) personal effectiveness;

(b) adaptive behavior;

(c) interpersonal relationships;

(d) academic, vocational, and life

adjustment;

(e) health; or

(f) individual, group, or

organizational performance;

(iii) providing psychological, neuropsychological, and psychoeducational evaluation, therapy, and remediation as well as counseling, psychoanalysis, psychotherapy, hypnosis, and biofeedback; or

(iv) consulting with others, including other mental health professionals, physicians, school personnel, or organizations within the scope of the provider's competency and training with respect to services provided for a specific individual; [~~or~~]

(B) action taken under the authority granted by a prescriptive authority certificate issued under Section 501.353;  
or

(C) the supervision of an activity or service described by Paragraph (A) or (B).

SECTION 3. Section 501.051(b), Occupations Code, is amended

to read as follows:

(b) To ensure adequate representation on the board of the diverse fields of psychology, the governor in making appointments under Subsection (a)(1) shall appoint:

(1) at least two members who provide psychological services, at least one of whom holds a prescriptive authority certificate issued under Section 501.353;

(2) at least one member who conducts research in the field of psychology; and

(3) at least one member who teaches as a member of the faculty of a psychological training institution.

SECTION 4. Subchapter D, Chapter 501, Occupations Code, is amended by adding Section 501.163 to read as follows:

Sec. 501.163. ADVISORY COMMITTEE ON PRESCRIPTIVE AUTHORITY. (a) The board shall appoint an advisory committee on prescriptive authority for psychologists.

(a-1) Effective September 1, 2019, the advisory committee consists of six members as follows:

(1) three members who each hold a prescriptive authority certificate issued under Section 501.353;

(2) one member who is a psychiatrist;

(3) one member who is a pediatrician; and

(4) one member who represents the public.

(a-2) This subsection and Subsection (a-1) expire September 1, 2022.

(b) Effective September 1, 2022, the advisory committee consists of six members as follows:

(1) five members who each hold a prescriptive authority certificate issued under Section 501.353; and

(2) one member who represents the public.

(c) The advisory committee shall make recommendations to the board regarding the regulation of psychologists who hold prescriptive authority certificates issued under Section 501.353, including recommendations concerning board rules to establish:

(1) eligibility requirements; and

(2) standards of practice for certificate holders.

(d) Chapter 2110, Government Code, does not apply to the composition or duration of the advisory committee.

SECTION 5. Section 501.304, Occupations Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The rules adopted under Subsection (a) must require that, of the minimum number of hours of continuing education required to renew a license as a psychologist, half of that number of hours or 10 hours, whichever is less, must be in the areas of pharmacology and pathophysiology if the psychologist holds a prescriptive authority certificate.

SECTION 6. Subchapter H, Chapter 501, Occupations Code, is amended by adding Sections 501.353 and 501.354 to read as follows:

Sec. 501.353. PRESCRIPTIVE AUTHORITY CERTIFICATE. (a) The board shall issue a prescriptive authority certificate to a psychologist who:

(1) meets the eligibility requirements of Subsection (b);

(2) submits an application on a form prescribed by the board;

(3) has not, in the two-year period preceding the date of the application, had a prescriptive authority certificate revoked; and

(4) pays the fee set by the board.

(b) To be eligible for a prescriptive authority certificate a psychologist must:

(1) have completed a training program in psychopharmacology from an institution of higher education or a provider of continuing education approved by the board that includes instruction in:

- (A) basic life sciences;
- (B) neuroscience;
- (C) clinical and research pharmacology and psychopharmacology;
- (D) clinical pathophysiology;
- (E) physical assessments and laboratory examinations;
- (F) clinical pharmacotherapeutics; and
- (G) ethical and legal issues relevant to prescriptive authority and associated research;

(2) pass a nationally recognized examination approved by the board in the area of prescriptive authority; and

(3) provide evidence of professional liability coverage.

(c) A psychologist who holds a prescriptive authority certificate is authorized to:

- (1) issue a prescription drug order;
- (2) administer or dispense a prescription drug;
- (3) order tests commonly associated with monitoring the use of prescription drugs; and
- (4) represent that the psychologist holds a prescriptive authority certificate.

(d) The authority of a psychologist to issue a prescription drug order or administer or dispense a prescription drug under a prescriptive authority certificate is limited to a drug or device related to the diagnosis, treatment, or management of emotional, interpersonal, learning, substance use, neuropsychological, cognitive, or behavioral disorders or disabilities, or mental illness. A prescriptive authority certificate does not authorize the prescribing, administering, or dispensing of an **Opioid**.

(e) A psychologist who holds a prescriptive authority certificate may only practice under the supervision of a physician or a psychologist who meets the requirements of Section 501.354 until the certificate holder satisfies the supervised experience requirement of that section.

(f) The board shall adopt rules to protect the health of patients by requiring a psychologist who holds a prescriptive authority certificate to notify a patient's primary care physician or provider, if any, before the psychologist:

- (1) issues a prescription drug order for a drug or otherwise changes the type or dosage of any drug prescribed for the patient; or
- (2) administers or dispenses a prescription drug to the patient.

(g) A primary care provider is not liable for an act of a psychologist acting under a prescriptive authority certificate based solely on the provider receiving a notification under Subsection (f).

Sec. 501.354. REQUIRED SUPERVISED EXPERIENCE FOR PRESCRIPTIVE AUTHORITY CERTIFICATE HOLDER. (a) Not later than the second anniversary of the date of issuance of a prescriptive authority certificate, the psychologist who holds the certificate must complete at least 2,000 hours of practice under the authority of the certificate treating not less than 100 patients under the supervision of a physician or a psychologist who has maintained a prescriptive authority certificate for the three years preceding

the date the supervision began. The supervision must be under a written agreement approved by the board that requires periodic

meetings between the psychologist and supervising provider.

(b) A physician or psychologist may not at any time supervise under this section more than the full-time equivalent of seven psychologists.

(c) Unless the supervising provider has reason to believe the psychologist lacked the competency to perform the act, a supervising provider is not liable for an act of a psychologist solely because the provider entered into an agreement to supervise the psychologist.

(d) The board shall revoke the prescriptive authority certificate of a psychologist who does not complete the supervised experience as required by Subsection (a).

SECTION 7. Section 481.002(39), Health and Safety Code, is amended to read as follows:

(39) "Practitioner" means:

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

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

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

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

SECTION 8. Section 481.073(a), Health and Safety Code, is amended to read as follows:

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

SECTION 9. Section 481.074(d), Health and Safety Code, is amended to read as follows:

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

the Texas State Board of Examiners of Psychologists, shall establish the period after the date on which the prescription is issued that a person may fill a prescription for a controlled substance listed in Schedule II. A person may not refill a prescription for a substance listed in Schedule II.

SECTION 10. Sections 481.076(a) and (c), Health and Safety Code, are amended to read as follows:

(a) The board may not permit any person to have access to information submitted to the board under Section 481.074(q) or 481.075 except:

(1) the board, the Texas Medical Board, the Texas Department of Licensing and Regulation [~~State Board of Podiatric Medical Examiners~~], the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, the Texas Board of Nursing, [~~or~~] the Texas Optometry Board, or the Texas State Board of Examiners of Psychologists for the purpose of:

(A) investigating a specific license holder; or

(B) monitoring for potentially harmful prescribing or dispensing patterns or practices under Section 481.0762;

(2) an authorized officer or member of the department or authorized employee of the board engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(3) the department on behalf of a law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(4) a medical examiner conducting an investigation;

(5) provided that accessing the information is authorized under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) and regulations adopted under that Act:

(A) a pharmacist or a pharmacy technician, as defined by Section 551.003, Occupations Code, acting at the direction of a pharmacist; or

(B) a practitioner who:

(i) is a physician, dentist, veterinarian, podiatrist, optometrist, psychologist, or advanced practice nurse or is a physician assistant described by Section 481.002(39)(D) or an employee or other agent of a practitioner acting at the direction of a practitioner; and

(ii) is inquiring about a recent Schedule II, III, IV, or V prescription history of a particular patient of the practitioner;

(6) a pharmacist or practitioner who is inquiring about the person's own dispensing or prescribing activity; or

(7) one or more states or an association of states with which the board has an interoperability agreement, as provided by Subsection (j).

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

SECTION 11. Section 483.001(12), Health and Safety Code, is amended to read as follows:

(12) "Practitioner" means:

(A) a person:

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

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

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

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

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

SECTION 12. Sections 576.025(b), (c), (e), and (f), Health and Safety Code, are amended to read as follows:

(b) Consent to the administration of psychoactive medication given by a patient or by a person authorized by law to consent on behalf of the patient is valid only if:

(1) the consent is given voluntarily and without coercive or undue influence;

(2) the treating physician, a treating psychologist who holds a prescriptive authority certificate, or a person designated by the physician or psychologist, provided the following information, in a standard format approved by the department, to the patient and, if applicable, to the patient's representative authorized by law to consent on behalf of the patient:

(A) the specific condition to be treated;

(B) the beneficial effects on that condition expected from the medication;

(C) the probable health and mental health consequences of not consenting to the medication;

(D) the probable clinically significant side effects and risks associated with the medication;

(E) the generally accepted alternatives to the medication, if any, and why the physician or psychologist recommends that they be rejected; and

(F) the proposed course of the medication;

(3) the patient and, if appropriate, the patient's representative authorized by law to consent on behalf of the patient is informed in writing that consent may be revoked; and

(4) the consent is evidenced in the patient's clinical record by a signed form prescribed by the facility or by a statement of the [~~treating~~] physician or psychologist described by Subdivision (2), or a person designated by the physician or the psychologist, that documents that consent was given by the appropriate person and the circumstances under which the consent was obtained.

(c) If the [~~treating~~] physician or psychologist described by Subsection (b)(2) designates another person to provide the information under Subsection (b), then, not later than two working days after that person provides the information, excluding weekends and legal holidays, the physician or psychologist shall meet with

the patient and, if appropriate, the patient's representative who provided the consent, to review the information and answer any questions.

(e) In prescribing psychoactive medication, a [~~treating~~] physician or psychologist described by Subsection (b)(2) shall:

(1) prescribe, consistent with clinically appropriate medical care, the medication that has the fewest side effects or the least potential for adverse side effects, unless the class of medication has been demonstrated or justified not to be effective clinically; and

(2) administer the smallest therapeutically acceptable dosages of medication for the patient's condition.

(f) If a physician or psychologist described by Subsection (b)(2) issues an order to administer psychoactive medication to a patient without the patient's consent because the patient is having a medication-related emergency:

(1) the physician or psychologist shall document in the patient's clinical record in specific medical or behavioral terms the necessity of the order and that the physician or psychologist has evaluated but rejected other generally accepted, less intrusive forms of treatment, if any; and

(2) treatment of the patient with the psychoactive medication shall be provided in the manner, consistent with clinically appropriate medical care, least restrictive of the patient's personal liberty.

SECTION 13. Section 301.002(2), Occupations Code, is amended to read as follows:

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

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

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

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

(D) the supervision or teaching of nursing;

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

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

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

(H) the development of the nursing care plan.

SECTION 14. Section 551.003(34), Occupations Code, is amended to read as follows:

(34) "Practitioner" means:

(A) a person licensed, certified, or registered

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

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

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

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

SECTION 15. Section 501.051(b), Occupations Code, as amended by this Act, does not affect the entitlement of a member serving on the Texas State Board of Examiners of Psychologists immediately before the effective date of this Act to continue to serve for the remainder of the member's term. With the first appointment of a member described by Section 501.051(a)(1), Occupations Code, to be made by the governor on or after the effective date of this Act, the governor shall appoint a member to the board who has the qualifications required by Section 501.051(b), Occupations Code, as amended by this Act.

SECTION 16. (a) Not later than December 1, 2019, the Texas State Board of Examiners of Psychologists shall appoint members of the advisory committee in accordance with Section 501.163(a-1), Occupations Code, as added by this Act.

(b) Not later than June 1, 2020, the advisory committee shall make initial recommendations to the Texas State Board of Examiners of Psychologists as described by Section 501.163(c), Occupations Code, as added by this Act.

(c) Not later than December 1, 2022, the Texas State Board of Examiners of Psychologists shall appoint members to the advisory committee so that the composition of the committee complies with Section 501.163(b), Occupations Code, as added by this Act.

SECTION 17. Not later than September 1, 2020, the Texas State Board of Examiners of Psychologists shall adopt rules and procedures necessary to implement Sections 501.353 and 501.354, Occupations Code, as added by this Act.

SECTION 18. This Act takes effect September 1, 2019.