

BILL ANALYSIS

C.S.H.B. 2602
By: Coleman
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law allows physicians to delegate the prescribing of Schedule II controlled substances to advanced practice registered nurses (APRNs) and physician assistants (PAs) under certain circumstances, including the care of hospital and emergency room patients. However, this authority does not extend to prescriptions for use by the patient after returning home to continue recovery. Interested parties contend that this delays discharges and increases costs. Moreover, the parties assert, APRNs and PAs who treat patients with mental illness, cancer, and painful chronic conditions in long-term care and outpatient settings are prohibited from prescribing or ordering Schedule II controlled substances for these patients in these settings.

Citing these inefficiencies and a recent FDA decision reclassifying hydrocodone-combination products from Schedule III to Schedule II, the parties assert the need to expand the delegated prescribing authority of certain APRNs and PAs for Schedule II drugs. C.S.H.B. 2602 seeks to address this need.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2602 amends the Occupations Code to include among the circumstances under which a physician is authorized to delegate the prescribing or ordering of a Schedule II controlled substance if the delegation is part of the plan of care for the treatment of a person receiving palliative care or if, as part of the plan of care for the treatment of a person with a disorder defined in the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition, or a subsequent edition, the delegation is to an advanced practice registered nurse authorized by the Texas Board of Nursing to practice as a psychiatric mental health advanced practice registered nurse or a physician assistant recognized by the Texas Physician Assistant Board as specializing in psychiatric or mental health care. The bill defines "palliative care" as a form of care that is person-centered and family-focused; provides a patient with relief from the symptoms, pain, and stress of a serious illness; ensures an additional layer of support to a patient during the treatment of a serious illness; and is appropriate for a patient of any age and at any stage of a serious illness. The bill clarifies that a physician's authority to delegate the prescribing or ordering of a Schedule III, IV, or V controlled substance includes refills of the prescription and specifies that a physician's authority to delegate the prescribing or ordering of a Schedule II controlled substance to certain patients in a hospital facility-based practice includes discharge prescriptions.

C.S.H.B. 2602 authorizes a physician to delegate the prescribing or ordering of a Schedule II controlled substance if the physician was able to delegate the prescribing or ordering of that controlled substance on November 1, 2013, because on that date the controlled substance was listed in Schedule III, IV, or V. The bill authorizes a prescription or order for a Schedule II, III, IV, or V controlled substance issued by an advanced practice registered nurse or a physician assistant under specified provisions relating to the delegation of prescribing and ordering drugs and devices to be filled by any pharmacy that may fill the prescription or order if prescribed or ordered by the delegating physician.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2602 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 157.0511, Occupations Code, is amended by amending Subsections (b) and (b-1) and adding Subsection (b-3) to read as follows:

(b) Except as provided by Subsections [~~Subsection~~] (b-1) and (b-3), a physician may delegate the prescribing or ordering of a controlled substance only if:

(1) the prescription is for a controlled substance listed in Schedule III, IV, or V as established by the commissioner of state health services [~~the Department of State Health Services~~] under Chapter 481, Health and Safety Code;

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

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

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

(b-1) A physician may delegate the prescribing or ordering of a controlled substance listed in Schedule II as established by the commissioner of state health services [~~the Department of State Health Services~~]

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 157.0511, Occupations Code, is amended by amending Subsections (b) and (b-1) and adding Subsections (b-3), (b-4), and (d) to read as follows:

(b) Except as provided by Subsections [~~Subsection~~] (b-1) and (b-3), a physician may delegate the prescribing or ordering of a controlled substance only if:

(1) the prescription is for a controlled substance listed in Schedule III, IV, or V as established by the commissioner of state health services [~~the Department of State Health Services~~] under Chapter 481, Health and Safety Code;

(2) the prescription, including **refills [a refill]** of the prescription, is for a period not to exceed 90 days;

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

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

(b-1) A physician may delegate the prescribing or ordering of a controlled substance listed in Schedule II as established by the commissioner of state health services [~~the Department of State Health Services~~]

under Chapter 481, Health and Safety Code, only:

(1) in a hospital facility-based practice under Section 157.054, in accordance with policies approved by the hospital's medical staff or a committee of the hospital's medical staff as provided by the hospital bylaws to ensure patient safety, and as part of the care provided to a patient who:

(A) has been admitted to the hospital for an intended length of stay of 24 hours or greater; or

(B) is receiving services in the emergency department of the hospital; [øæ]

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

(3) as part of the plan of care for the treatment of a person receiving palliative care; or

(4) to an advanced practice registered nurse authorized by the Texas Board of Nursing to practice as a psychiatric mental health advanced practice registered nurse or a physician assistant recognized by the Texas Physician Assistant Board as specializing in psychiatric or mental health care.

(b-3) A physician may delegate the prescribing or ordering of a controlled substance listed in Schedule II as established by the commissioner of state health services under Chapter 481, Health and Safety Code, if the physician was able to delegate the prescribing or ordering of that controlled substance on November 1, 2013, because on that date the controlled substance was listed in Schedule III, IV, or V.

(See Sec. 562.017, Occupations Code, below.)

under Chapter 481, Health and Safety Code, only:

(1) in a hospital facility-based practice under Section 157.054, in accordance with policies approved by the hospital's medical staff or a committee of the hospital's medical staff as provided by the hospital bylaws to ensure patient safety, and as part of the care, including discharge prescriptions, provided to a patient who:

(A) has been admitted to the hospital for an intended length of stay of 24 hours or greater; or

(B) is receiving services in the emergency department of the hospital; [øæ]

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

(3) as part of the plan of care for the treatment of a person receiving palliative care; or

(4) as part of the plan of care for the treatment of a person with a disorder defined in the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition, or a subsequent edition, to an advanced practice registered nurse authorized by the Texas Board of Nursing to practice as a psychiatric mental health advanced practice registered nurse or a physician assistant recognized by the Texas Physician Assistant Board as specializing in psychiatric or mental health care.

(b-3) A physician may delegate the prescribing or ordering of a controlled substance listed in Schedule II as established by the commissioner of state health services under Chapter 481, Health and Safety Code, if the physician was able to delegate the prescribing or ordering of that controlled substance on November 1, 2013, because on that date the controlled substance was listed in Schedule III, IV, or V.

(b-4) A prescription or order issued by an advanced practice registered nurse or a physician assistant under Subsection (b), (b-1), or (b-3) may be filled by any pharmacy that may fill the prescription or order if prescribed or ordered by the delegating physician.

(d) For purposes of this section, "palliative

care" means a form of care that:
(1) is person-centered and family-focused;
(2) provides a patient with relief from the symptoms, pain, and stress of a serious illness;
(3) ensures an additional layer of support to a patient during the treatment of a serious illness; and
(4) is appropriate for a patient of any age and at any stage of a serious illness.

No equivalent provision. *(But see Sec. 157.0511(b-4), Occupations Code, above.)*

SECTION 2. Subchapter A, Chapter 562, Occupations Code, is amended by adding Section 562.017 to read as follows:

Sec. 562.017. CERTAIN PRESCRIPTIONS FOR CONTROLLED SUBSTANCES. A pharmacist practicing in a Class A pharmacy shall fill a prescription for a controlled substance listed in Schedule II as established by the commissioner of state health services under Chapter 481, Health and Safety Code, that is authorized by an advanced practice registered nurse or physician assistant to whom a physician has delegated prescribing and ordering authority under Section 157.0511(b-1).

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 2. Same as introduced version.