

BILL ANALYSIS

Senate Research Center

S.B. 532
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Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Across Texas, the public has interest in the establishment of more retail clinics for quick and affordable delivery of basic health care. However, Texas law limits and restricts the prescriptive authority of practicing physician assistants and advanced practice nurses.

S.B. 532 amends current law relating to a physician's delegation of prescriptive authority to physician assistants or advanced practice nurses.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Medical Board is modified in SECTION 1 (Section 157.0511, Occupations Code) and SECTION 5 (Section 157.0542, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 157.0511(b) and (b-1), Occupations Code, as follows:

(b) Authorizes a physician to delegate the carrying out or signing of a prescription drug order for a controlled substance only in certain instances to include if the prescription is for a controlled substance listed in Schedule III, IV, or V as established by the commissioner of public health under Chapter 481 (Texas Controlled Substances Act), Health and Safety Code, and the prescription, including a refill of the prescription, is for a period not to exceed 90, rather than 30, days. Makes a nonsubstantive change.

(b-1) Requires the Texas Medical Board (TMB) to adopt rules that require a physician who delegates the carrying out or signing of a prescription drug order under this subchapter to register with TMB the name and license number of the physician assistant or advanced practice nurse to whom a delegation is made. Authorizes TMB to develop and use an electronic online delegation registration process for registration under this subsection. Deletes existing text requiring TMB to adopt rules that require a physician who delegates the carrying out or signing of a prescription drug order under this subchapter to maintain records that show when and to whom a delegation is made. Deletes existing text authorizing TMB to access the physician's records under this subsection as necessary for an investigation.

SECTION 2. Amends Sections 157.053(a) and (e), Occupations Code, as follows:

(a) Redefines "primary practice site."

(e) Provides that a physician's authority to delegate the carrying out or signing of a prescription drug order is limited to four, rather than three, physician assistants or advanced practice nurses or their full-time equivalents practicing at the physician's primary practice site or at an alternate practice site under Section 157.0541 unless a waiver is granted under Section 157.0542(b-1) and the patients with whom the physician has established or will establish a physician-patient relationship.

SECTION 3. Amends Section 157.054(b), Occupations Code, to make a conforming change.

SECTION 4. Amends Sections 157.0541(a), (c), and (e), Occupations Code, as follows:

(a) Redefines "alternate site" to mean a practice site located within 75 miles, rather than 60 miles, of the delegating physician's residence or primary practice site.

(c) Provides that physician supervision is adequate for the purposes of this section if:

(1) the delegating physician is on-site with the advanced practice nurse or physician assistant at least 10 percent of the hours of operation of the site each month that the physician assistant or advanced practice nurse is acting with delegated prescriptive authority and is available while on-site to see, diagnose, treat, and provide care to those patients for services provided or to be provided by the physician assistant or advanced practice nurse to whom the physician has delegated prescriptive authority; and is not prohibited by contract from seeing, diagnosing, or treating a patient for services provided or to be provided by the physician assistant or advanced practice nurse under delegated prescriptive authority, rather than on-site at least 20 percent of the time;

(2) the delegating physician reviews at least 10 percent of the medical charts, including through electronic review of the charts from a remote location, for each advanced practice nurse or physician assistant at the site; and

(3) the delegating physician is available through direct telecommunication for consultation, patient referral, or assistance with a medical emergency. Makes nonsubstantive changes.

(e) Prohibits the combined number of advanced practice nurses and physician assistants to whom a physician may delegate under this section and at a primary practice site under Section 157.053, unless a waiver is granted under Section 157.0542(b-1), from exceeding four, rather than three, physician assistants or advanced practice nurses or the full time equivalent of four, rather than three, physician assistants or advanced practice nurses.

SECTION 5. Amends Section 157.0542, Occupations Code, by amending Subsection (a) and adding Subsections (b-1)-(b-3), as follows:

(a) Creates an exception under Subsection (b-1)(1) (relating to a limitation on the number of physician assistants or advanced practice nurses, or their full-time equivalents under certain circumstances).

(b-1) Authorizes TMB, if TMB determines that the types of health care services provided by a physician assistant or advanced practice nurse under Section 157.0541 are limited in nature and duration and are within the scope of delegated authority under this subchapter, as defined by TMB rule, and that patient health care will not be adversely affected, to modify or waive the limitation on the number of physician assistants or advanced practice nurses, or their full-time equivalents, if TMB does not authorize more than six physician assistants or advanced practice nurses or their full-time equivalents; the mileage limitation; or the on-site supervision requirements, except that the physician is required to be available on-site at regular intervals and when on-site to be available to treat patients.

(b-2) Prohibits a modification or waiver granted under this section from validating or authorizing a contract provision that prohibits a physician from seeing, diagnosing, or treating any patient.

(b-3) Prohibits TMB, in granting a modification or waiver under Subsection (b-1), from limiting the authority of the physician to delegate to less than the requirements established under Section 157.0541(a)(2) (relating to an alternate site meaning a practice site located within 75 miles of the delegating physician's residence or primary practice site) or Section 157.0541(e) or greater than the requirements established under Section 157.0541(c)(1)(A) (relating to physician supervision being adequate when the delegating physician is on-site with the advanced practice nurse).

SECTION 6. Amends Section 157.059(f), Occupations Code, to provide that the authority of a physician to delegate under this section is limited to four, rather than three, nurse midwives or physician assistants or their full-time equivalents, and the designated facility at which the nurse midwife or physician assistant provides care.

SECTION 7. Requires TMB, not later than January 31, 2010, to adopt the rules necessary to implement Chapter 157, Occupations Code, as amended by this Act.

SECTION 8. Effective date: September 1, 2009.