

BILL ANALYSIS

Senate Research Center
81R5723 YDB-F

S.B. 532
By: Patrick, Dan
Health & Human Services
3/16/2009
As Filed

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.

As proposed, S.B. 532 expands the parameters related to prescriptive authority. S.B. 532 decreases, from 20 percent to 10 percent, the amount of time required for physicians delegating prescriptive authority to practice on-site with a physician assistant or nurse practitioner. S.B. 532 also increases the distance allowed, from 60 to 75 miles, between an alternate site and a delegating physician's primary residence or practice site. S.B. 532 authorizes the Texas Medical Board to waive limitations on the number of physician assistants or advanced practice nurses, mileage, and on-site supervision requirements. S.B. 532 authorizes the development and usage of electronic options for the delegation registration process of and review of medical charts.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Medical Board is modified in SECTION 1 (Section 157.0511, Occupations Code), SECTION 4 (Section 157.0542, Occupations Code), and SECTION 5 (Section 157.0543, 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 nonsubstantive changes.

(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" to include a practice location providing care for established patients for a physician assistant or advanced practice nurse who practices on-site with the physician more than 50 percent of the time.

(e) Provides that a physician's authority to delegate the carrying out or signing of a prescription drug order is limited to 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 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 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, 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 twenty percent of the time; 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 is available through direct telecommunication for consultation, patient referral, or assistance with a medical emergency.

(e) Makes conforming changes.

SECTION 4. Amends Section 157.0542, Occupations Code, by adding Subsections (b-1)-(b-3), as follows:

(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 delegation authority of the physician to requirements less stringent than the requirements established under Section 157.0541(a)(2) or Section 157.0541(e) or more stringent than the requirements established under Section 157.0541(c)(1).

SECTION 5. Amends Subchapter B, Chapter 157, Occupations Code, by adding Section 157.0543, as follows:

Sec. 157.0543. VOLUNTARY CHARITY CARE AT NONPROFIT CLINIC. (a) Authorizes a physician to delegate the carrying out or signing of a prescription drug order to a physician assistant or advanced practice nurse who has delegation authority under Section 157.052, 157.053, 157.054, or 157.0541 and who provides without remuneration and in accordance with TMB rules voluntary charity health care services at a clinic run by or sponsored by a nonprofit organization.

(b) Provides that a delegation under this section does not require additional on-site supervision or chart review.

SECTION 6. 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 7. Makes application of this Act prospective to February 1, 2010.

SECTION 8. Effective date: September 1, 2009.