

BILL ANALYSIS

Senate Research Center
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S.B. 680
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, Texas law limits a physician's ability to assess the needs of the patients being served, the physician's capacity to delegate, the working relationship the physician has with advanced practice nurses (APN) and physician's assistants (PA), and what is best for the practice. A physician may only delegate to an APN or a PA in one of five practice sites: a physician's primary practice site, an alternate practice site, a facility-based practice in a long-term care facility, a site serving a medically underserved population, and a facility-based practice in a hospital. Each site has its own set of restrictions on how the physician delegates and the number of APNs and PAs to whom the physician is authorized to delegate.

An example of this is that at a physician's primary practice site, an alternate practice site, and a facility-based practice in a long-term care facility, the physician is only authorized to delegate prescriptive authority to three APNs or PAs or their full-time equivalents. At a site serving a medically underserved population or a facility-based practice in a hospital there is no limit on the number of APNs or PAs to whom a physician is authorized to delegate, but the physician is limited to delegating at three medically underserved sites or one facility-based hospital site.

As proposed, S.B. 680 amends Chapter 157 (Authority of Physician to Delegate Certain Medical Acts), Occupations Code, to allow physicians to enter into prescriptive authority agreements with APNs and PAs that are based on a physician-delegated model, rather than the site where the APN or PA practices, and requires these agreements to specify the limits of the prescriptive authority, define a process for quality evaluation and improvement and how that will be monitored, and specify how the physician and the APN or PA will collaborate. This bill also increases the number of full-time employees a physician is authorized to supervise and a physician to delegate the authority to prescribe controlled substances.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Medical Board (TMB) is rescinded in SECTION 3 (Section 157.0511, Occupations Code) and SECTION 10 (Sections 157.054, 157.0541, and 157.0542, Occupations Code) of this bill.

Rulemaking authority previously granted to TMB and the Texas Board of Nursing is modified in SECTION 4 (Section 157.052, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Subchapter B, Chapter 157, Occupations Code, to read as follows:

SUBCHAPTER B. PRESCRIPTIVE AUTHORITY AGREEMENTS WITH ADVANCED PRACTICE NURSES AND PHYSICIAN ASSISTANTS

SECTION 2. Amends Section 157.051, Occupations Code, by adding Subdivisions (2-c) and (4), to define "medication order," and "prescription drug order."

SECTION 3. Amends Section 157.0511, Occupations Code, as follows:

Sec. 157.0511. New heading: PHYSICIAN AUTHORITY. (a) Authorizes a physician, in a prescriptive authority agreement executed under Section 157.052, to provide an

advanced practice nurse or physician assistant authority to prescribe or order a dangerous drug or controlled substance, including authority to sign a prescription drug order or medication order. Deletes existing text relating to certain limits on a physician's authority to delegate the carrying out or signing of a prescription drug order under this subchapter.

(b) Redesignates from existing Subsection (c). Provides that this subchapter does not modify the authority granted by law for an advanced practice, rather than a licensed registered, nurse or physician assistant to administer or provide a medication, including a controlled substance listed in Schedule II as established by the commissioner of state health services, rather than the commissioner of public health, under Chapter 481 (Texas Controlled Substances Act), Health and Safety Code, that is authorized by a physician under a physician's order, standing medical order, standing delegation order, or protocol. Deletes text of existing Subsection (b) relating to authorizing a physician to delegate the carrying out or signing of a prescription drug order for a controlled substance only under certain conditions. Deletes existing Subsection (b-1) relating to the board being required 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, and authorizing the board to access the physician's records under this subsection as necessary for an investigation.

SECTION 4. Amends Section 157.052, Occupations Code, as follows:

Sec. 157.052. New heading: **PRESCRIPTIVE AUTHORITY AGREEMENT**. (a) Authorizes a physician to enter into a prescriptive authority agreement with an advanced practice nurse or physician assistant. Requires the prescriptive authority agreement to identify the physician's and the advanced practice nurse's or physician assistant's areas of practice and any specialties; describe any limitations on the advanced practice nurse's or physician assistant's authority to prescribe or order dangerous drugs, controlled substances, or medical devices in accordance with Section 157.055; describe a prescriptive authority quality evaluation and improvement plan and specify methods for documenting the implementation of the plan; and specify a process to ensure collaboration between the physician and the advanced practice nurse or physician assistant.

(b) Authorizes the physician and the advanced practice nurse or physician assistant to specialize in different practice areas and enter into a prescriptive authority agreement if the prescriptive authority agreement demonstrates an appropriate link between the specialty practice area of the physician and the specialty practice area of the advanced practice nurse or physician assistant.

(c) Authorizes the degree of collaboration between the physician and the advanced practice nurse or physician assistant specified in the prescriptive authority agreement to vary based on the advanced practice nurse's or physician assistant's education, experience, and skill in treating patients.

(d) Authorizes a physician, except as provided by Subsection (e), to enter into prescriptive authority agreements with not more than eight advanced practice nurses and physician assistants or their full-time equivalents, unless a reasonably prudent physician would consider agreements with more than eight advanced practice nurses and physician assistants to be safe based on the advanced practice nurses' and physician assistants' education, experience, knowledge, skills, and abilities, and either the type of patients served, or the extent to which access to care by a medically underserved population is improved.

(e) Provides that the limitation on the number of prescriptive authority agreements under Subsection (d) does not apply to an agreement at a hospital licensed under Chapter 241 (Hospitals), Health and Safety Code, or owned or operated by this state, in which the physician and the advanced practice nurses and physician assistants who are parties to the agreement are authorized to practice.

(f) Requires the Texas Medical Board to cooperate with the Texas Board of Nursing in adopting rules under this subchapter to eliminate, to the extent possible, conflicts between the rules adopted by each board.

(g) Requires this section to be liberally construed to allow the use of prescriptive authority agreements to safely and effectively utilize the skills and services of advanced practice nurses and physician assistants. Deletes existing text defining "health manpower shortage area," "medically underserved area," "registered nurse," and "site serving a medically underserved population." Deletes text of existing Subsections (b), (c), (d), and (e) regarding matters relating to delegation of prescriptive authority for registered nurses and physician assistants at a site serving a medically underserved population.

SECTION 5. Amends Section 157.055, Occupations Code, as follows:

Sec. 157.055. ORDERS AND PRESCRIPTIVE AUTHORITY AGREEMENTS. (a) Creates this subsection from existing text. Requires a prescriptive authority agreement or other order to be defined in a manner that promotes the exercise of professional judgment by the advanced practice nurse and physician assistant commensurate with the education and experience of that person. Provides that, under this section, a prescriptive authority agreement or order used by a reasonable and prudent physician exercising sound medical judgment is not required to state the specific drugs, medical devices, or types of categories of drugs that may be prescribed or the specific drugs, medical devices, or types or categories of drugs that may not be prescribed. Makes conforming and nonsubstantive changes.

(b) Provides that a prescriptive authority agreement is considered a protocol for the purpose of fulfilling any requirement for a protocol imposed under any other law.

SECTION 6. Amends Section 157.056, Occupations Code, as follows:

Sec. 157.056. PRESCRIPTION INFORMATION. Requires that certain information be provided on each prescription subject to this subchapter, including the name, address, telephone number, and identification number of the advanced practice, rather than registered, nurse or physician assistant signing the prescription drug order.

SECTION 7. Amends Section 157.057, Occupations Code, as follows:

Sec. 157.057. ADDITIONAL IMPLEMENTATION METHODS. Makes a conforming change.

SECTION 8. Amends Sections 157.059(d), (e), (f), (i), and (j), Occupations Code, as follows:

(d) Makes a conforming change.

(e) Makes a conforming change.

(f) Provides that the authority of a physician to delegate under this section is limited to eight, rather than three, nurse midwives or physician assistants or their full-time equivalents.

(i) Makes a conforming change.

(j) Makes a conforming change.

SECTION 9. Amends Section 157.060, Occupations Code, as follows:

Sec. 157.060. PHYSICIAN LIABILITY FOR DELEGATED ACT. Provides that unless the physician has reason to believe the physician assistant or advanced practice

nurse lacked the competency to perform the act, a physician is not liable for an act of a physician assistant or advanced practice nurse solely because the physician signed a prescriptive authority agreement, a standing medical order, a standing delegation order, or another order authorizing the physician assistant or advanced practice nurse to administer, provide, or sign a prescription drug order. Makes conforming changes.

SECTION 10. Repealers: Sections 157.051(2) (relating to defining "carrying out or signing a prescription drug order"), 157.053 (Prescribing at Physician Primary Practice Sites), 157.054 (Prescribing at Facility-Based Practice Sites), 157.0541 (Prescribing at Alternate Sites), and 157.0542 (Board Waiver of Delegation Requirements), Occupations Code.

SECTION 11. Makes application of this Act prospective.

SECTION 12. Effective date: September 1, 2009.