

## **BILL ANALYSIS**

H.B. 3260  
By: Naishtat  
Human Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

In 2007, the 80th Legislature, Regular Session, enacted S.B. 1766 regarding the consumer direction work group and inadvertently deleted a provision allowing individuals using the consumer-directed service option to delegate certain nursing tasks to attendants without the involvement of a nurse. The section was removed with the understanding that the delegation of select nursing activities by those using the consumer-directed service option was included in the Texas Board of Nursing rules. However, the board rules reference back to the deleted section that was mistakenly repealed.

Historically, the list of procedures that can be delegated by a patient has been enumerated in law and limited. This forces some individuals who receive attendant care to wait for nursing assistance for certain daily tasks, causing inconvenience, a lower standard of care, and higher health care costs. Enumerating this list in statute also makes adding or removing certain procedures as technology changes a time-consuming and arduous process.

H.B. 3260 exempts a person from registered or vocational nursing license requirements for the delivery of a service for which payment is provided under the consumer-directed service option if the person delivering the service and the consumer receiving the service meet certain conditions.

### **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**

H.B. 3260 amends the Government Code to exempt from registered nurse or vocational nurse licensing requirements the delivery of a service for which payment is provided under the consumer-directed service option for persons with disabilities and elderly persons if the person who delivers the service has not been denied a nursing license, has not been issued a nursing license that is revoked or suspended, and performs a service that is not expressly prohibited from delegation by the Texas Board of Nursing. The bill further requires, for the delivery of the service to be exempt, that the consumer who receives the service has a disability and the service would have been performed by the consumer or the consumer's legally authorized representative except for that disability and that the consumer or the consumer's legally authorized representative who is capable of training the person in the proper performance of the service directs the person to deliver the service. The bill requires the legally authorized representative to be present when the service is performed or be immediately accessible to the person who delivers the service if the person delivers the service after training by the legally authorized representative. The bill requires the representative, if the person will perform the service when the representative is not present, to observe the person performing the service at least once to assure the representative that the person can competently perform that service.

**EFFECTIVE DATE**

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.