

BILL ANALYSIS

C.S.S.B. 532
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

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.

C.S.S.B. 532 expands the parameters related to delegated prescriptive authority and 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. The bill also increases the distance allowed, from 60 to 75 miles, between an alternate site and a delegating physician's primary residence or practice site. The bill authorizes the Texas Medical Board to waive limitations on the number of physician assistants or advanced practice nurses, mileage, and on-site supervision requirements. The bill authorizes the development and usage of electronic options for the delegation registration process and review of medical charts.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Medical Board in SECTIONS 1, 4, and 5 of this bill.

ANALYSIS

C.S.S.B. 532 amends the Occupations Code to clarify that a physician's authorization to delegate the carrying out or signing of a prescription for a controlled substance applies to the refill of a prescription. The bill increases the maximum duration of such a prescription from 30 to 90 days. The bill requires Texas Medical Board rules to require a delegating physician to register with the board the name and license number of the physician assistant or advanced practice nurse to whom prescriptive authority has been delegated, rather than the rules requiring the physician to maintain records showing when and to whom such a delegation is made. The bill authorizes the board to develop and use an electronic online delegation registration process for the registration requirement and makes a conforming change to remove a provision authorizing the board to access the physician's records as necessary for an investigation.

C.S.S.B. 532 expands the definition of "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. The bill redefines "alternate site" to include a practice site located within 75 miles, rather than 60 miles, of the physician's residence or primary practice site. The bill decreases from 20 to 10 the percentage of time a delegating physician is required to be on-site with an advanced practice nurse or physician assistant for purposes of determining adequate supervision and clarifies that the percentage of time applies to 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 patients for services provided or to be provided by the physician assistant or advanced practice nurse to whom the physician has delegated prescriptive authority. The bill adds the condition for purposes of determining adequate

supervision that the delegating physician may not be prohibited by contract from seeing, diagnosing, or treating a patient for otherwise delegated services. The bill clarifies that the requirement that a delegating physician review at least 10 percent of the medical charts, at a site as a condition for determining adequate supervision, includes electronic review of the charts from a remote location and applies to each advanced practice nurse or physician assistant at the site.

C.S.S.B. 532 authorizes the board, on determination that the types of health care services provided by a physician assistant or advanced practice nurse at an alternate site are limited in nature and duration and within the scope of delegated authority as defined by board 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 the board does not authorize more than six physician assistants or advanced practice nurses or their full-time equivalents; the mileage limitation; or on-site supervision requirements, except that the physician must be available on-site at regular intervals and when on-site the physician must be available to treat patients. The bill prohibits a modification or waiver granted by the board from validating or authorizing a contract provision prohibiting a physician from seeing, diagnosing, or treating any patient. The bill prohibits the board in granting a modification or waiver from limiting the authority of a physician to delegate to less than the requirements established under the bill's provisions relating to the maximum distance of an alternative site and the limitation on the number of physician assistants or advanced practice nurses, or greater than the bill's provisions relating to the time a delegating physician is required to be on-site.

C.S.S.B. 532 requires the Texas Medical Board to adopt the rules necessary to implement the bill's provisions not later than January 31, 2010.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 532 differs from the original by making nonsubstantive changes to conform to certain bill drafting conventions.

C.S.S.B. 532 omits provisions included in the original authorizing 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 at the physician's primary practice site, sites serving certain medically underserved populations, facility-based practice sites, or alternate sites and provides voluntary charity health care services at a clinic run by or sponsored by a nonprofit organization. The substitute omits a provision included in the original specifying that such a delegation for voluntary charity care purposes does not require additional on-site supervision or chart review.

C.S.S.B. 532 omits a provision included in the original making its provisions applicable to a physician's delegation of prescriptive authority made on or after February 1, 2010.