

BILL ANALYSIS

S.B. 1484
By: Watson
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

S.B. 1766 (80th Legislature, Regular Session, 2007), related to the Consumer Direction Workgroup, inadvertently deleted a provision allowing individuals using the consumer directed service (CDS) option to delegate certain nursing tasks to attendants without the involvement of a nurse.

This section was removed with the understanding that the delegation of select nursing activities by those using the CDS option was included in the Texas Board of Nursing (BON) rules. However, the BON rules reference back to the deleted section which was mistakenly repealed.

This legislation would allow individuals using the CDS option to delegate nursing tasks to attendants without the involvement of a nurse. Procedures that can be delegated under this law are those that an individual who does not require attendant services is allowed to perform for themselves such as feeding through a feeding tube, skin care, catheterization, and injections such as insulin.

As proposed, S.B. 1484 amends current law relating to delivery of certain services through consumer direction to elderly persons and persons with disabilities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Section 531.051, Government Code, by adding Subsections (e) and (f), as follows:

(e) Provides that Section 301.251(a) (relating to the prohibition of a person from practicing or offering to practice professional or vocational nursing in this state without the proper licensure), Occupations Code, does not apply to delivery of a service for which payment is provided under the consumer-directed service option developed under this section if:

(1) the person who delivers the service has not been denied a license under Chapter 301 (Nurses), Occupations Code; has not been issued a license under Chapter 301, Occupations Code, that is revoked or suspended; and performs a service that is not expressly prohibited from delegation by the Texas Board of Nursing; and

(2) 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 if the consumer is capable of training the person in the proper performance of the service, the consumer directs the person to deliver the service; or if the consumer is not capable of training the person in the proper performance of the service, the consumer's legally authorized representative is capable of training the person in the proper performance of the service and directs the person to deliver the service.

(f) Requires the legally authorized representative, if the person delivers the service under Subsection (e)(2)(B)(ii) (relating to the requirement that the consumer's legally authorized representative has the capability to train and direct the person to deliver the service), to be present when the service is performed or be immediately accessible to the person who delivers the service. 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 performing the service can competently perform that service.

SECTION 2. Effective date: upon passage or September 1, 2009.

EFFECTIVE DATE

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