

By: Coleman

H.B. No. 2709

A BILL TO BE ENTITLED

AN ACT

relating to a physician's delegation of prescriptive authority to physician assistants or advanced practice nurses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 157.0511(b) and (b-1), Occupations Code, are amended to read as follows:

(b) A physician may delegate the carrying out or signing of a prescription drug order for a controlled substance only if:

(1) the prescription is for a controlled substance listed in Schedule [~~Schedules~~] III, IV, or V as established by the commissioner of public health under Chapter 481, Health and Safety Code;

(2) the prescription, including a refill of the prescription, is for a period not to exceed 90 [~~30~~] days;

(3) with regard to the refill of a prescription, the refill is authorized after consultation with the delegating physician and the consultation is noted in the patient's chart; and

(4) with regard to a prescription for a child less than two years of age, the prescription is made after consultation with the delegating physician and the consultation is noted in the patient's chart.

(b-1) The board shall adopt rules that require a physician who delegates the carrying out or signing of a prescription drug order under this subchapter to register with the board the name and

1 license number of the physician assistant or advanced practice
2 nurse [~~maintain records that show when and~~] to whom a delegation is
3 made. The board may develop and use an electronic online delegation
4 registration process for registration under this subsection
5 [~~access the physician's records under this subsection as necessary~~
6 ~~for an investigation~~].

7 SECTION 2. Sections 157.053(a) and (e), Occupations Code,
8 are amended to read as follows:

9 (a) In this section, "primary practice site" means:

10 (1) the practice location of a physician at which the
11 physician spends the majority of the physician's time;

12 (2) a licensed hospital, a licensed long-term care
13 facility, or a licensed adult care center where both the physician
14 and the physician assistant or advanced practice nurse are
15 authorized to practice;

16 (3) a clinic operated by or for the benefit of a public
17 school district to provide care to the students of that district and
18 the siblings of those students, if consent to treatment at that
19 clinic is obtained in a manner that complies with Chapter 32, Family
20 Code;

21 (4) the residence of an established patient; [~~or~~]

22 (5) another location at which the physician is
23 physically present with the physician assistant or advanced
24 practice nurse; or

25 (6) a practice location providing care for established
26 patients for a physician assistant or advanced practice nurse who
27 practices on-site with the physician more than 50 percent of the

1 time.

2 (e) A physician's authority to delegate the carrying out or
3 signing of a prescription drug order is limited to:

4 (1) three physician assistants or advanced practice
5 nurses or their full-time equivalents practicing at the physician's
6 primary practice site or at an alternate practice site under
7 Section 157.0541 unless a waiver is granted under Section
8 157.0542(b-1); and

9 (2) the patients with whom the physician has
10 established or will establish a physician-patient relationship.

11 SECTION 3. Sections 157.0541(a), (c), and (e), Occupations
12 Code, are amended to read as follows:

13 (a) In this section, "alternate site" means a practice site:

14 (1) where services similar to the services provided at
15 the delegating physician's primary practice site are provided; and

16 (2) located within 75 [~~60~~] miles of the delegating
17 physician's residence or primary practice site.

18 (c) Physician supervision is adequate for the purposes of
19 this section if the delegating physician:

20 (1) is on-site with the advanced practice nurse or
21 physician assistant at least 10 [~~20~~] percent of the hours of
22 operation of the site each month that the physician assistant or
23 advanced practice nurse is acting with delegated prescriptive
24 authority, is available while on-site to see, diagnose, treat, and
25 provide care to those patients for services provided or to be
26 provided by the physician assistant or advanced practice nurse to
27 whom the physician has delegated prescriptive authority, and is not

1 prohibited by contract from seeing, diagnosing, or treating a
2 patient for services provided or to be provided by the physician
3 assistant or advanced practice nurse under delegated prescriptive
4 authority [~~time~~];

5 (2) reviews at least 10 percent of the medical charts,
6 including through electronic review of the charts from a remote
7 location, for each advanced practice nurse or physician assistant
8 at the site; and

9 (3) is available through direct telecommunication for
10 consultation, patient referral, or assistance with a medical
11 emergency.

12 (e) Unless a waiver is granted under Section 157.0542(b-1),
13 the [~~The~~] combined number of advanced practice nurses and physician
14 assistants to whom a physician may delegate under this section and
15 at a primary practice site under Section 157.053 may not exceed
16 three physician assistants or advanced practice nurses or the
17 full-time equivalent of three physician assistants or advanced
18 practice nurses.

19 SECTION 4. Section 157.0542, Occupations Code, is amended
20 by adding Subsections (b-1), (b-2), and (b-3) to read as follows:

21 (b-1) If the board determines that the types of health care
22 services provided by a physician assistant or advanced practice
23 nurse under Section 157.0541 are limited in nature and duration and
24 are within the scope of delegated authority under this subchapter,
25 as defined by board rule, and that patient health care will not be
26 adversely affected, the board may modify or waive:

27 (1) the limitation on the number of physician

1 assistants or advanced practice nurses, or their full-time
2 equivalents, if the board does not authorize more than six
3 physician assistants or advanced practice nurses or their full-time
4 equivalents;

5 (2) the mileage limitation; or

6 (3) the on-site supervision requirements, except that
7 the physician must be available on-site at regular intervals and
8 when on-site the physician must be available to treat patients.

9 (b-2) A modification or waiver granted under this section
10 may not validate or authorize a contract provision that prohibits a
11 physician from seeing, diagnosing, or treating any patient.

12 (b-3) In granting a modification or waiver under Subsection
13 (b-1), the board may not limit the delegation authority of the
14 physician to requirements less stringent than the requirements
15 established under Section 157.0541(a)(2) or Section 157.0541(e) or
16 more stringent than the requirements established under Section
17 157.0541(c)(1).

18 SECTION 5. Subchapter B, Chapter 157, Occupations Code, is
19 amended by adding Section 157.0543 to read as follows:

20 Sec. 157.0543. VOLUNTARY CHARITY CARE AT NONPROFIT CLINIC.

21 (a) A physician may delegate the carrying out or signing of a
22 prescription drug order to a physician assistant or advanced
23 practice nurse who:

24 (1) has delegation authority under Section 157.052,
25 157.053, 157.054, or 157.0541; and

26 (2) provides without remuneration and in accordance
27 with board rules voluntary charity health care services at a clinic

1 run by or sponsored by a nonprofit organization.

2 (b) A delegation under this section does not require
3 additional on-site supervision or chart review.

4 SECTION 6. Not later than January 31, 2010, the Texas
5 Medical Board shall adopt the rules necessary to implement Chapter
6 157, Occupations Code, as amended by this Act.

7 SECTION 7. The changes in law made by this Act apply only to
8 a physician's delegation of prescriptive authority made on or after
9 February 1, 2010.

10 SECTION 8. This Act takes effect September 1, 2009.