

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. Subsections (b) and (b-1), Section 157.0511, 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. Subsections (a) and (e), Section 157.053,  
8 Occupations Code, 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 location where a physician assistant or advanced  
26 practice nurse who practices on-site with the physician more than  
27 50 percent of the time and in accordance with board rules provides:

1                    (A) health care services for established  
2 patients;

3                    (B) without remuneration, voluntary charity  
4 health care services at a clinic run or sponsored by a nonprofit  
5 organization; or

6                    (C) without remuneration, voluntary health care  
7 services during a declared emergency or disaster at a temporary  
8 facility operated or sponsored by a governmental entity or  
9 nonprofit organization and established to serve persons in this  
10 state.

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

13                    (1) four [~~three~~] physician assistants or advanced  
14 practice nurses or their full-time equivalents practicing at the  
15 physician's primary practice site or at an alternate practice site  
16 under Section 157.0541 unless a waiver is granted under Section  
17 157.0542(b-1); and

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

20            SECTION 3. Subsection (b), Section 157.054, Occupations  
21 Code, is amended to read as follows:

22            (b) A physician's authority to delegate under Subsection  
23 (a) is limited as follows:

24                    (1) the delegation must be made under a physician's  
25 order, standing medical order, standing delegation order, or  
26 another order or protocol developed in accordance with policies  
27 approved by the facility's medical staff or a committee of the

1 facility's medical staff as provided by the facility bylaws;

2 (2) the delegation must occur in the facility in which  
3 the physician is the medical director, the chief of medical staff,  
4 the chair of the credentialing committee, or a department chair;

5 (3) the delegation may not permit the carrying out or  
6 signing of prescription drug orders for the care or treatment of the  
7 patients of any other physician without the prior consent of that  
8 physician;

9 (4) delegation in a long-term care facility must be by  
10 the medical director and is limited to the carrying out and signing  
11 of prescription drug orders to not more than four [~~three~~] advanced  
12 practice nurses or physician assistants or their full-time  
13 equivalents; and

14 (5) a physician may not delegate at more than one  
15 licensed hospital or more than two long-term care facilities unless  
16 approved by the board.

17 SECTION 4. Subsections (a), (c), and (e), Section 157.0541,  
18 Occupations Code, are amended to read as follows:

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

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

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

24 (c) Physician supervision is adequate for the purposes of  
25 this section if [~~the delegating physician~~]:

26 (1) the delegating physician:

27 (A) is on-site with the advanced practice nurse

or physician assistant at least 10 ~~[20]~~ percent of 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 those patients for services provided or to be provided by the physician assistant or advanced practice nurse to whom the physician has delegated prescriptive authority; and

(B) is not prohibited by contract from seeing, diagnosing, or treating a patient for services provided or to be provided by the physician assistant or advanced practice nurse under delegated prescriptive authority ~~[time]~~;

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

(3) the delegating physician is available through direct telecommunication for consultation, patient referral, or assistance with a medical emergency.

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

SECTION 5. Section 157.0542, Occupations Code, is amended by amending Subsection (a) and adding Subsections (b-1), (b-2), and

(b-3) to read as follows:

(a) On determining that the conditions of Subsection (b) have been met, the board may waive or modify any of the site or supervision requirements for a physician to delegate the carrying out or signing of prescription drug orders to an advanced practice nurse or physician assistant under Sections 157.052, 157.053, 157.054, and 157.0541, or under board rules. The board may not waive the limitation on the number of primary or alternate practice sites at which a physician may delegate the carrying out or signing of prescription drug orders or the number of advanced practice nurses or physician assistants to whom a physician may delegate the carrying out or signing of prescription drug orders, except as provided by Subsection (b-1)(1).

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

(1) 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;

(2) the mileage limitation; or

(3) the on-site supervision requirements, except that the physician must be available on-site at regular intervals and

1 when on-site the physician must be available to treat patients.

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

5 (b-3) In granting a modification or waiver under Subsection  
6 (b-1), the board may not limit the authority of the physician to  
7 delegate to less than the requirements established under Section  
8 157.0541(a)(2) or Section 157.0541(e) or greater than the  
9 requirements established under Section 157.0541(c)(1)(A).

10 SECTION 6. Subsection (f), Section 157.059, Occupations  
11 Code, is amended to read as follows:

12 (f) The authority of a physician to delegate under this  
13 section is limited to:

14 (1) four [~~three~~] nurse midwives or physician  
15 assistants or their full-time equivalents; and

16 (2) the designated facility at which the nurse midwife  
17 or physician assistant provides care.

18 SECTION 7. Not later than January 31, 2010, the Texas  
19 Medical Board shall adopt the rules necessary to implement Chapter  
20 157, Occupations Code, as amended by this Act.

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

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 532 passed the Senate on March 26, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 28, 2009, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 532 passed the House, with amendments, on May 20, 2009, by the following vote: Yeas 145, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor