

1-1 By: Patrick S.B. No. 532
1-2 (In the Senate - Filed January 23, 2009; February 17, 2009,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; March 23, 2009, reported favorably by the following
1-5 vote: Yeas 8, Nays 0; March 23, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to a physician's delegation of prescriptive authority to
1-9 physician assistants or advanced practice nurses.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsections (b) and (b-1), Section 157.0511,
1-12 Occupations Code, are amended to read as follows:

1-13 (b) A physician may delegate the carrying out or signing of
1-14 a prescription drug order for a controlled substance only if:

1-15 (1) the prescription is for a controlled substance
1-16 listed in Schedule ~~[Schedules]~~ III, IV, or V as established by the
1-17 commissioner of public health under Chapter 481, Health and Safety
1-18 Code;

1-19 (2) the prescription, including a refill of the
1-20 prescription, is for a period not to exceed 90 ~~[30]~~ days;

1-21 (3) with regard to the refill of a prescription, the
1-22 refill is authorized after consultation with the delegating
1-23 physician and the consultation is noted in the patient's chart; and

1-24 (4) with regard to a prescription for a child less than
1-25 two years of age, the prescription is made after consultation with
1-26 the delegating physician and the consultation is noted in the
1-27 patient's chart.

1-28 (b-1) The board shall adopt rules that require a physician
1-29 who delegates the carrying out or signing of a prescription drug
1-30 order under this subchapter to register with the board the name and
1-31 license number of the physician assistant or advanced practice
1-32 nurse ~~[maintain records that show when and]~~ to whom a delegation is
1-33 made. The board may develop and use an electronic online delegation
1-34 registration process for registration under this subsection
1-35 ~~[access the physician's records under this subsection as necessary~~
1-36 ~~for an investigation].~~

1-37 SECTION 2. Subsections (a) and (e), Section 157.053,
1-38 Occupations Code, are amended to read as follows:

1-39 (a) In this section, "primary practice site" means:

1-40 (1) the practice location of a physician at which the
1-41 physician spends the majority of the physician's time;

1-42 (2) a licensed hospital, a licensed long-term care
1-43 facility, or a licensed adult care center where both the physician
1-44 and the physician assistant or advanced practice nurse are
1-45 authorized to practice;

1-46 (3) a clinic operated by or for the benefit of a public
1-47 school district to provide care to the students of that district and
1-48 the siblings of those students, if consent to treatment at that
1-49 clinic is obtained in a manner that complies with Chapter 32, Family
1-50 Code;

1-51 (4) the residence of an established patient; ~~[or]~~

1-52 (5) another location at which the physician is
1-53 physically present with the physician assistant or advanced
1-54 practice nurse; or

1-55 (6) a practice location providing care for established
1-56 patients for a physician assistant or advanced practice nurse who
1-57 practices on-site with the physician more than 50 percent of the
1-58 time.

1-59 (e) A physician's authority to delegate the carrying out or
1-60 signing of a prescription drug order is limited to:

1-61 (1) three physician assistants or advanced practice
1-62 nurses or their full-time equivalents practicing at the physician's
1-63 primary practice site or at an alternate practice site under
1-64 Section 157.0541 unless a waiver is granted under Section

2-1 157.0542(b-1); and

2-2 (2) the patients with whom the physician has
 2-3 established or will establish a physician-patient relationship.

2-4 SECTION 3. Subsections (a), (c), and (e), Section 157.0541,
 2-5 Occupations Code, are amended to read as follows:

2-6 (a) In this section, "alternate site" means a practice site:

2-7 (1) where services similar to the services provided at
 2-8 the delegating physician's primary practice site are provided; and

2-9 (2) located within 75 [60] miles of the delegating
 2-10 physician's residence or primary practice site.

2-11 (c) Physician supervision is adequate for the purposes of
 2-12 this section if the delegating physician:

2-13 (1) is on-site with the advanced practice nurse or
 2-14 physician assistant at least 10 [20] percent of the hours of

2-15 operation of the site each month that the physician assistant or
 2-16 advanced practice nurse is acting with delegated prescriptive

2-17 authority, is available while on-site to see, diagnose, treat, and
 2-18 provide care to those patients for services provided or to be

2-19 provided by the physician assistant or advanced practice nurse to
 2-20 whom the physician has delegated prescriptive authority, and is not

2-21 prohibited by contract from seeing, diagnosing, or treating a
 2-22 patient for services provided or to be provided by the physician

2-23 assistant or advanced practice nurse under delegated prescriptive
 2-24 authority [time];

2-25 (2) reviews at least 10 percent of the medical charts,
 2-26 including through electronic review of the charts from a remote

2-27 location, for each advanced practice nurse or physician assistant
 2-28 at the site; and

2-29 (3) is available through direct telecommunication for
 2-30 consultation, patient referral, or assistance with a medical

2-31 emergency.

2-32 (e) Unless a waiver is granted under Section 157.0542(b-1),
 2-33 the [The] combined number of advanced practice nurses and physician

2-34 assistants to whom a physician may delegate under this section and
 2-35 at a primary practice site under Section 157.053 may not exceed

2-36 three physician assistants or advanced practice nurses or the
 2-37 full-time equivalent of three physician assistants or advanced

2-38 practice nurses.

2-39 SECTION 4. Section 157.0542, Occupations Code, is amended
 2-40 by adding Subsections (b-1), (b-2), and (b-3) to read as follows:

2-41 (b-1) If the board determines that the types of health care
 2-42 services provided by a physician assistant or advanced practice

2-43 nurse under Section 157.0541 are limited in nature and duration and
 2-44 are within the scope of delegated authority under this subchapter,

2-45 as defined by board rule, and that patient health care will not be
 2-46 adversely affected, the board may modify or waive:

2-47 (1) the limitation on the number of physician
 2-48 assistants or advanced practice nurses, or their full-time

2-49 equivalents, if the board does not authorize more than six
 2-50 physician assistants or advanced practice nurses or their full-time

2-51 equivalents;

2-52 (2) the mileage limitation; or
 2-53 (3) the on-site supervision requirements, except that

2-54 the physician must be available on-site at regular intervals and
 2-55 when on-site the physician must be available to treat patients.

2-56 (b-2) A modification or waiver granted under this section
 2-57 may not validate or authorize a contract provision that prohibits a

2-58 physician from seeing, diagnosing, or treating any patient.

2-59 (b-3) In granting a modification or waiver under Subsection
 2-60 (b-1), the board may not limit the delegation authority of the

2-61 physician to requirements less stringent than the requirements
 2-62 established under Section 157.0541(a)(2) or Section 157.0541(e) or

2-63 more stringent than the requirements established under Section
 2-64 157.0541(c)(1).

2-65 SECTION 5. Subchapter B, Chapter 157, Occupations Code, is
 2-66 amended by adding Section 157.0543 to read as follows:

2-67 Sec. 157.0543. VOLUNTARY CHARITY CARE AT NONPROFIT CLINIC.
 2-68 (a) A physician may delegate the carrying out or signing of a
 2-69 prescription drug order to a physician assistant or advanced

3-1 practice nurse who:

3-2 (1) has delegation authority under Section 157.052,
3-3 157.053, 157.054, or 157.0541; and

3-4 (2) provides without remuneration and in accordance
3-5 with board rules voluntary charity health care services at a clinic
3-6 run by or sponsored by a nonprofit organization.

3-7 (b) A delegation under this section does not require
3-8 additional on-site supervision or chart review.

3-9 SECTION 6. Not later than January 31, 2010, the Texas
3-10 Medical Board shall adopt the rules necessary to implement Chapter
3-11 157, Occupations Code, as amended by this Act.

3-12 SECTION 7. The changes in law made by this Act apply only to
3-13 a physician's delegation of prescriptive authority made on or after
3-14 February 1, 2010.

3-15 SECTION 8. This Act takes effect September 1, 2009.

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