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By:  Allison H.B. No. 3567

A BILL TO BE ENTITLED

AN ACT

relating to requirements for the renewal of a physician's registration permit and the delegation by a physician of certain medical acts.

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

SECTION 1.  Section 156.001, Occupations Code, is amended by adding Subsection (d-1) to read as follows:

(d-1)  A license holder who has entered into a prescriptive authority agreement under Section 157.0512 shall, at the time the license holder submits a registration renewal application, make an electronically signed attestation to the board that periodic meetings required by Section 157.0512(e)(9)(B) have taken place in accordance with Section 157.0512(f).

SECTION 2.  Section 157.001, Occupations Code, is amended by amending Subsections (a) and (c) and adding Subsections (a-1) and (a-2) to read as follows:

(a)  A physician may delegate to a qualified and properly trained person acting under the physician's supervision any medical act that a reasonable and prudent physician would find within the scope of sound medical judgment to delegate if, in the opinion of the delegating physician:

(1)  the act:

(A)  can be properly and safely performed by the person to whom the medical act is delegated;

(B)  is performed in its customary manner; [~~and~~]

(C)  is not in violation of any other statute; and

(D)  is within the scope of practice of the physician's primary specialty during the five-year period preceding the delegation; and

(2)  the person to whom the delegation is made does not represent to the public that the person is authorized to practice medicine.

(a-1)  The performance of a delegated medical act by a qualified person must be supervised:

(1)  at the location and for the period the delegated medical act is performed; and

(2)  by:

(A)  the delegating physician; or

(B)  an advanced practice registered nurse or physician assistant supervised by the delegating physician and to whom the delegating physician has delegated the supervision of the qualified person.

(a-2)  A delegated medical act may not be performed at a location that is more than 75 miles from the physician's primary practice location.

(c)  The board may determine whether:

(1)  an act constitutes the practice of medicine, not inconsistent with this chapter; and

(2)  a medical act may be properly or safely delegated and supervised by a physician with a thorough knowledge of the delegated medical act [~~physicians~~].

SECTION 3.  Section 157.002(b), Occupations Code, is amended to read as follows:

(b)  A physician may delegate to any qualified and properly trained person acting under the physician's supervision the act of administering or providing dangerous drugs in the physician's office, as ordered by the physician, that are used or required to meet the immediate needs of the physician's patients. The administration or provision of the dangerous drugs must be performed in compliance with laws relating to the practice of medicine and state and federal laws relating to those dangerous drugs, including a requirement that the proper dosage of a dangerous drug may be determined only by:

(1)  the delegating physician; or

(2)  an advanced practice registered nurse or physician assistant acting under the physician's delegation through a standing order.

SECTION 4.  Section 157.051(4), Occupations Code, is amended to read as follows:

(4)  "Device" has the meaning assigned by Section 551.003, and includes durable medical equipment, laser and intense-pulsed light devices, and injectable implant devices.

SECTION 5.  Sections 157.0512(c), (e), and (f), Occupations Code, are amended to read as follows:

(c)  Except as provided by Subsection (d), the combined number of advanced practice registered nurses and physician assistants with whom a physician may enter into a prescriptive authority agreement and whom a physician may supervise may not exceed five [~~seven~~] advanced practice registered nurses and physician assistants or the full-time equivalent of five [~~seven~~] advanced practice registered nurses and physician assistants.

(e)  A prescriptive authority agreement must, at a minimum:

(1)  be in writing and signed and dated by the parties to the agreement;

(2)  state the name, address, and all professional license numbers of the parties to the agreement;

(3)  state the nature of the practice, practice locations, or practice settings;

(4)  identify the types or categories of drugs or devices that may be prescribed or the types or categories of drugs or devices that may not be prescribed;

(5)  provide a general plan for addressing consultation and referral;

(6)  provide a plan for addressing patient emergencies;

(7)  state the general process for communication and the sharing of information between the physician and the advanced practice registered nurse or physician assistant to whom the physician has delegated prescriptive authority related to the care and treatment of patients;

(8)  provide that [~~if~~] alternate physician supervision will [~~is to~~] be utilized during any period during which the supervising physician is more than 75 miles from the advanced practice registered nurse's or physician assistant's primary practice location and [~~,~~] designate one or more alternate physicians who may:

(A)  provide appropriate supervision on a temporary basis in accordance with the requirements established by the prescriptive authority agreement and the requirements of this subchapter; and

(B)  participate in the prescriptive authority quality assurance and improvement plan meetings required under this section; and

(9)  describe a prescriptive authority quality assurance and improvement plan and specify methods for documenting the implementation of the plan that include the following:

(A)  chart review, including provisions for the physician to sign a chart to denote that the physician reviewed the chart and for [~~with the number of charts to be reviewed determined by~~] the physician to review the charts of at least 10 percent of the patients treated under the prescriptive authority agreement by the [~~and~~] advanced practice registered nurse or physician assistant, as applicable; and

(B)  periodic meetings between the advanced practice registered nurse or physician assistant and the physician.

(f)  The periodic meetings described by Subsection (e)(9)(B) must:

(1)  include:

(A)  the sharing of information relating to patient treatment and care, needed changes in patient care plans, and issues relating to referrals; and

(B)  discussion of patient care improvement;

(2)  be documented in writing; [~~and~~]

(3)  identify the patients whose treatment and care is discussed; and

(4) [~~(3)~~]  take place at least once a month in a manner determined by the physician and the advanced practice registered nurse or physician assistant.

SECTION 6.  Section 157.055, Occupations Code, is amended to read as follows:

Sec. 157.055.  ORDERS AND PROTOCOLS. A protocol or other order shall be defined in a manner that promotes the exercise of professional judgment by the clinical nurse specialist or [~~advanced practice registered nurse and~~] physician assistant, as applicable, commensurate with the education and experience of that person. Under this section, an order or protocol used by a reasonable and prudent physician exercising sound medical judgment:

(1)  is not required to describe the exact steps that a clinical nurse specialist [~~an advanced practice registered nurse~~] or a physician assistant must take with respect to each specific condition, disease, or symptom; and

(2)  may state the types or categories of medications that may be prescribed or the types or categories of medications that may not be prescribed.

SECTION 7.  Not later than December 1, 2023, the Texas Medical Board shall adopt the rules necessary to implement the changes in law made by this Act, including a rule prescribing the method by which a physician may make and electronically sign the attestation required by Section 156.001(d-1), Occupations Code, as added by this Act.

SECTION 8.  Section 156.001(d-1), Occupations Code, as added by this Act, applies only to an application for renewal of a registration permit submitted on or after January 1, 2024.

SECTION 9.  Section 157.0512, Occupations Code, as amended by this Act, applies only to a prescriptive authority agreement entered into on or after the effective date of this Act. An agreement entered into before the effective date of this Act is governed by the law in effect on the date the agreement was entered into, and the former law is continued in effect for that purpose.

SECTION 10.  This Act takes effect September 1, 2023.