

BILL ANALYSIS

C.S.H.B. 3749
By: Orr
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that there has been an increased number of patients receiving elective nonsurgical medical cosmetic procedures and elective intravenous (IV) therapy and that these treatments are often administered in quasi-medical settings, often referred to as med spas. As reported by KCEN, in July 2023, a patient tragically lost her life after receiving IV therapy at a med spa in Wortham, Texas. Catastrophic outcomes related to med spas have occurred in other states as well: the CDC reported that, from 2018 to 2023, four customers of a medical spa in New Mexico contracted HIV after exposure to needles from cosmetic platelet-rich plasma micro needling facials despite reporting low behavioral risks associated with HIV acquisition. According to a survey distributed to the American Society for Dermatologic Surgery, the majority of respondents reported that 61 to 100 percent of the complications seen in their practices were attributable to medical spas. C.S.H.B. 3749 seeks to address this issue by providing for the delegation by a physician for the acts of prescribing, ordering or administering elective intravenous therapy to certain medical professional acting under adequate physician supervision.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3749 amends the Occupations Code to authorize a physician to delegate the act of prescribing or ordering elective intravenous therapy to a physician assistant acting under adequate physician supervision or an advance practice registered nurse acting under adequate physician supervision. The bill authorizes a physician to delegate the act of administering elective intravenous therapy to a physician assistant, an advance practice registered nurse, or a registered nurse, all of whom must be acting act under adequate physician supervision. A physician's authority to delegate the act of prescribing or ordering elective intravenous therapy is subject to statutory provisions relating to the delegation of certain medical acts to registered nurses and physician assistants. The bill establishes that a prescriptive authority agreement relating to elective intravenous therapy is included in the maximum number of prescriptive authority agreements authorized under those provisions. The bill makes the exception provided under those provisions for authority being exercised in a practice serving a medically underserved population or an applicable facility-based practice in a hospital inapplicable to a prescriptive authority agreement relating to elective intravenous therapy.

C.S.H.B. 3749 defines the following terms:

- "advanced practice registered nurse" by reference to the meaning assigned by provisions of the Nursing Practice Act relating to rules regarding specialized training;
- "elective intravenous therapy" as a procedure:
 - to administer fluids, nutrients, medications, or blood directly into a patient's bloodstream through a vein;
 - that is sought by the patient to alleviate symptoms of temporary discomfort or improve temporary wellness; and
 - that is not administered in a physician's office, a health facility licensed under applicable Health and Safety Code provisions, a mental hospital licensed under applicable Texas Mental Health Code provisions, or a hospital maintained or operated by Texas;
- "physician assistant" as a person who holds a license issued under the Physician Assistant Licensing Act; and
- "registered nurse" as a person licensed by the Texas Board of Nursing to practice professional nursing.

C.S.H.B. 3749 applies to the performance of a medical act on or after the bill's effective date under a physician's delegation, regardless of the manner in which the delegation is made and whether the delegation is made before, on, or after the bill's effective date.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3749 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a provision absent from the introduced requiring the bill to be known as Jenifer's Law.

The substitute omits the following provisions from the introduced:

- definitions of the terms "cosmetic medical procedure," "medical spa," and "medical spa director;"
- a provision establishing that a medical spa is a medical setting;
- a requirement for a medical spa to post a notice stating that a physician is not present at the location at any time when a physician is not present at the medical spa;
- a prohibition against a cosmetic medical procedure being performed at a medical spa unless the spa has a medical director;
- provisions establishing the eligibility for and duties of a medical spa director;
- a prohibition against a physician performing or supervising the performance of a cosmetic medical procedure by a non-physician provider unless the physician has completed training in the indications for and performance of the cosmetic medical procedure and is able to perform the procedure according to the standard of care;
- a provision establishing that training provided by the vendor or manufacturer of an injectable or medical device used to perform a cosmetic medical procedure does not satisfy those training requirements;
- requirements relating to a physician's authority to delegate or supervise cosmetic medical procedures;
- provisions relating to availability of a medical spa supervising physician; and
- provisions relating to non-physician provider requirements for cosmetic medical procedures.

The substitute revises a provision from the introduced authorizing a physician to delegate the act of prescribing or ordering elective intravenous therapy to a registered nurse acting under adequate physician supervision by replacing a registered nurse, as in the introduced with an advance practice registered nurse.

The substitute includes a provision absent from the introduced authorizing a physician to delegate the act of administering elective intravenous therapy to a physician assistant, an advanced practice registered nurse, or a registered nurse, all of whom must be acting under adequate physician supervision.

The substitute includes provisions absent from the introduced defining the terms "advanced practice registered nurse" and "physician assistant."

The substitute revises a provision from the introduced establishing that the bill applies to the performance of a medical act on or after the bill's effective date under a physician's delegation, including the act of prescribing, ordering, or administering a controlled substance, dangerous drug, or device, regardless of the manner in which the delegation is made and whether the delegation is made before, on, or after the bill's effective date by omitting the specification included in the introduced that such acts include the act of prescribing, ordering, or administering a controlled substance, dangerous drug, or device.