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

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

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

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

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

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

(4) the residence of an established patient; [**]

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

(6) a location where a physician assistant or advanced
practice nurse who practices on-site with the physician more than
50 percent of the time and in accordance with board rules provides:
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(A) health care services for established patients;

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

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

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

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

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

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

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

(1) the delegation must be made under a physician's order, standing medical order, standing delegation order, or another order or protocol developed in accordance with policies approved by the facility's medical staff or a committee of the
facility's medical staff as provided by the facility bylaws;

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

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

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

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

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

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

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

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

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

(1) the delegating physician:

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

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

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

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

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

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

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

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

SECTION 8. This Act takes effect September 1, 2009.
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President of the Senate

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:
19 Jun '09
Date
Rick Perry
Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE
2:00 P.M.
Jun 19 2009
Coley Shout III