

SUBJECT: Physician delegation of cosmetic and dermatological medical treatments

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — Kolkhorst, Naishtat, Coleman, J. Davis, Gonzales, Laubenberg,  
McReynolds, Zerwas

0 nays

3 absent — Hopson, S. King, Truitt

WITNESSES: For — Dan McCoy, Texas Dermatological Society; (*Registered, but did not testify*: Gary Floyd; Lisa Jackson, Texas Academy of Physician Assistants); (*On committee substitute*:) (*Registered, but did not testify*: Steven Finder)

Against — None

BACKGROUND: Botulinum toxin injections, more commonly referred to as Botox injections, cause temporary muscular paralysis that reduces the appearance of wrinkles. Dermal fillers are cosmetic agents injected under the skin that reduce the appearance of scars and wrinkles.

DIGEST: CSHB 2028 would allow a physician to delegate to physician assistants, advanced practice nurses, or other properly trained individuals the following procedures:

- administration of botulinum toxin injections;
- administration of dermal fillers; or
- cosmetic or aesthetic medical treatments.

The administration of these medical treatments would have to be in compliance with state and federal laws governing the practice of medicine. Delegation of these procedures by physicians would have to be in accordance with rules that would be developed by the Texas Medical Board.

This bill would take effect September 1, 2009.

**SUPPORTERS  
SAY:**

CSHB 2028 would ensure the safety of medical cosmetic treatments by allowing the Texas Medical Board to establish rules governing a physician's delegation of these procedures. Clients may not understand that a treatment they consider cosmetic also could endanger their health. For example, Botox injections are used because they cause temporary muscular paralysis that reduces the appearance of wrinkles. Dermal fillers are thick chemical agents that plump the skin. The administration of these agents sometimes is painful, so local anesthetic may be administered first to numb the face. If the numbing agent was not administered properly, it could cause permanent nerve damage to facial muscles.

The safety concerns associated with these and other cosmetic or aesthetic medical treatments dictate the use of extra caution in determining the circumstances of and manner by which they may be delegated to a non-physician. Even if non-physicians had received proper training, health concerns could dictate that supervising physicians be within a specified proximity to the treatment facility in case they needed to address issues that arose during treatment. The rules established by the Texas Medical Board as authorized by CSHB 2028 could ensure the delegation of aesthetic medical procedures was done appropriately to ensure patient safety.

**OPPONENTS  
SAY:**

CSHB 2028 is unnecessary and need not allow the Texas Medical Board to adopt rules governing a physician's delegation of cosmetic or aesthetic medical treatments. Doctors already may delegate medical treatments to people who are properly trained to perform them. Many people performing cosmetic or aesthetic medical treatments have undergone extensive training and received certification to practice in their field. If the Medical Board implemented overly restrictive physician supervision requirements for delegated treatments, these rules could prohibit trained, experienced medical aestheticians from rendering their delegated services without a physician on-site. Such requirements could disrupt the current practice of small businesses and undermine a doctor's authority to use professional judgment to determine if a treatment was safe to delegate.

**NOTES:**

The companion bills, SB 2346 by Hinojosa and SB 2427 by Deuell, have been referred to the Senate Health and Human Services Committee.