Comparison of Texas Prescriptive Authority Law for APRNs Before and After November 1, 2013

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SB 406 is the new prescriptive authority law governing delegation of prescriptive authority to Advanced Practice Registered Nurses (APRNs) and Physician Assistants in Texas. The law goes into effect on November 1, 2013. **Before November 1, 2013, physicians who delegate prescriptive authority and APRNs who have delegated prescriptive authority must practice under the current site-based restrictions.** Table 1 outlines the general differences between current law and delegated prescriptive authority as it will exist under the provisions in S.B. 406. Table 2 outlines the differences in the definitions for practice sites, and Table 3 outlines differences in physician supervision and quality assurance requirements. Table 4 notes the elements that must be included in the written documents required for delegated prescriptive authority before and after November 1st.

Abbreviations

BON – Texas Board of Nursing
CS – Controlled Substance
DO – Doctor of Osteopathy
MD – Doctor of Medicine
MUP – Medically Underserved Population
QAI – Quality Assurance and Improvement
RN – Registered Nurse
Rx – Prescriptive
TMB – Texas Medical Board

TABLE 1: General Differences in Prescriptive Authority Law before and after Implementing SB 406

	Before November 1, 2013	November 1, 2013 and After
Umbrella Term	Advanced Practice Nurse (APN)	Advanced Practice Registered Nurse (APRN)
Regulatory Agency for APRNs	BON authorizes RNs to practice as a NP, CNS, CRNA or CNM and issues prescriptive authority numbers	BON licenses RNs to practice as a NP, CNS, CRNA or CNM and issues prescriptive authority numbers
Type of Prescriptive Authority	Delegated – A physician must complete the TMB online Prescriptive Delegation Registration form before APN may "carry out or sign a prescription drug order."	Delegated – A physician must complete the TMB online Prescriptive Delegation Registration form before APRN may "prescribe or order a drug or device." (Except for physicians delegating to CRNAs ordering drugs and devices necessary to deliver anesthesia and related services.)
Written Document Required	Protocol	Prescriptive Authority Agreement (except in facility-based practices, or CRNAs functioning under §157.058, Medical Practice Act. See Table 4)
Physicians who may Delegate Rx Authority	MD or DO with an unrestricted Texas Medical License	Same
Eligibility Requirements for APRNs to	Based on meeting eligibility requirements in BON Rule 222.2, BON approves APN's Rx authority application for each APRN	Same plus statutory requirements for the APRN to be licensed in Texas in

Prescribe	role and/or population for whom the APN will prescribe & issues Rx authority #.	good standing.
Limitations on Physician Delegation	Site-Based – A physician may only delegate in facility-based, medically underserved, primary, and alternate practice sites.	No Site-Based restrictions on a physician's authority to delegate
Type of Physician Supervision	Varies based on type of practice site (See Table 3)	Same for all physicians
Number of APRNs/PAs to whom a physician may delegate Rx authority	Varies from no limitation to 4 FTEs based on type of practice site. In a licensed hospital and site serving a MUP there is no limit on the number of APRNs, but physicians are limited to delegating at no more than 1 licensed hospital or no more than 3 sites serving MUPs. Long-term care facility Medical Directors are limited to delegating at no more than two facilities.	Limited to 7 FTEs except no limit in licensed hospitals and practices serving a medically underserved population (See definition in Table 2). Same limitations on the number of licensed hospitals, long-term care facilities, and practices serving MUPs. However, facility-based physicians may also delegate at other practices if they conform to the Rx Authority Agreement requirements.
Number of physicians who may delegate to an APRN	No limitation	Same
Categories of Drugs Permitted	Dangerous Drugs and up to 90-day supply of Schedule III, IV and V Controlled Substances (CS). Consultation with physician required before prescribing a CS for a child under 2 yrs. & before refilling any CS prescription.	Same plus physicians delegating in hospices and hospital inpatient units & ERs may also delegate Schedule II Controlled Substances. Adds nonprescription drugs as a separate category. Clarifies that medical devices include durable medical equipment.[i]
Required Notification	None	Prior to entering an agreement, all parties must disclose any prior disciplinary action by a licensing board. If any individual is party to a Rx authority agreement and becomes the subject of an investigation by the licensing board, the individual is required to immediately notify the other parties to the agreement.
TMB Waivers	Delegating physicians may request that the TMB waive most site-based and supervisory restrictions	Eliminated[ii]

TABLE 2: Differences in Practice Site Definitions

Type of Site	Before November 1, 2013	November 1, 2013 and After
Site Serving a Medically Underserved Population	Includes practices located in federally or state designated medically underserved areas (MUAs) and Health Professional Shortage Areas (HPSAs), Rural Health Clinics, Federally Qualified Health Centers, public health & family planning clinics under contract with the state, and a site the Department of Health designates as serving a disproportionate number of clients eligible for publically funded health care programs.	Changes the term to "Practice Serving a Medically Underserved Population." Adds county, state, or federal correctional facilities. Eliminates practices in MUAs unless they were designated as a site serving a medically underserved population prior to March 1, 2013.[iii]
Facility-Based (FB)	Licensed hospital where the delegating physician is the medical director, Chief of Medical Staff, Chair of the Credentialing Committee, Department Chair, or a physician who consents to the request of the Medical Director or Chief of Staff; or a long-term care facility where the physician is the Medical Director	Same except a hospital FB practice *excludes* free-standing clinics, centers & practices. Physicians delegating in those facility-owned settings delegate to no more than 7 APRN/PA FTEs. Clarifies that one or more of the following may delegate Rx authority in hospitals: Medical Director, Chief of Medical Staff, Credentialing Committee Chair, Department Chair, or physicians who consent to the request of the Medical Director or Chief of Staff.
Primary Practice	Patients with whom the physician has or will establish a physician-patient relationship, and includes any of the following: 1. practice location at which the physician spends the majority of his/her time; 2. a licensed hospital, long-term care facility or adult care center where both the physician and APRN practice; 3. a public school-based clinic; 4. the residence of an established patient; 5. any location where the physician is physically present with the APRN; or 6. if the APRN practices on site with the physician more than 50% of the time, a clinic for established patients, a voluntary charity clinic, or a voluntary clinic during a declared disaster.	Eliminated (APRNs in these practice sites may prescribe but it is based on having a Prescriptive Authority Agreement (PAA), not on practicing in a particular site.)
Alternate Practice	A practice offering services similar to those provided at the delegating physician's primary site & located within 75 miles of the physician's residence or practice.	Eliminated (APRNs in these sites may prescribe based on having a PAA.)

TABLE 3: Differences in Physician Supervision and Quality Assurance Requirements

Type of Site	Before November 1, 2013	November 1, 2013 and After
Physician Supervision Requirements applying to all practice sites	Supervision must conform to what a reasonable, prudent physician would find consistent with sound medical judgment; May vary based upon the APRN's education and experience; and Must be continuous, but the physician's constant physical presence is not required.	TMB Rules not yet proposed, but language is likely to be similar.
Facility-Based	Same as above and in accordance with medical staff bylaws, policies or guidelines.	Same as above and in accordance with medical staff bylaws, policies or guidelines.
Site Serving a Medically Underserved Population	Physician on-site once every 10 business days the APN or PA is on-site. Maintain a log of patients discussed during daily status reports and a summary of physician activities while on-site.	Standardizes physician supervision and quality assurance requirements in all other practices. Physician Supervision: Same as above Quality Assurance: 1) Chart review – Number of charts determined by physician & APRN. 2) Document monthly meetings between APRN and physician to discuss patient care improvement, patient treatment, changes in patient care plans & patient referrals. 3) Frequency of meetings – For APRNs who have exercised Rx authority in 5 of the last 7 years, face-to-face once a month for 1 year, then face-to-face once every 3 months with monthly meetings between by electronic means. For APRNs with less Rx experience, monthly face-to-face meetings for 3 years, then face-to-face once every 3 months with electronic monthly meetings between. 4) Location of face-to-face meetings determined by APRN & physician.
Primary Practice	Same as for all sites. If APN and physician are not in the same site as least 50% of the time, maintain a log of patients discussed during daily status reports, and a summary of physician activities while on-site.	
Alternate Practice	Physician on site with the APN at least 10% of the hours of operation the PA or APN is acting with Rx authority. Available through telecommunication. Physician randomly reviews 10% of charts. Maintain a log of patients discussed during daily status reports and a summary of physician activities while on-site.	

TABLE 4: Requirements for Documents to Delegate Prescriptive Authority

	Before November 1, 2013	November 1, 2013 and After
Document Name	Protocol, physician's orders, standing medical orders, standing delegation orders	Prescriptive Authority Agreement (PAA) In a facility-based practice, may use PAA or delegation is under a physician's order, standing medical order, or standing delegation order or other order or protocol in accordance with facility medical staff bylaws & policies.
Elements of Written Document Required by Statute or Rule.	1) Medical acts physician delegates 2) Categories of dangerous drugs and CSs the APN may or may not prescribe 4) Limitations on dosage units and refills 5) Limitations on generic substitution 6) Instructions to patient for follow-up	1) Name, address and all professional license numbers of parties to agreement 2) Nature of practice, practice locations, or practice settings 3) Types or categories of drugs or devices the APRN may or may not prescribe 4) General plan for consultation & referral 5) Plan to address patient emergencies 6) General process for communicating information between the APRN & physician 7) May designate alternate physicians assuming QAI & supervisory duties on a temporary basis (not mandatory) 8) Describe a prescriptive authority QAI plan, specifying methods to document plan implementation. At a minimum the QAI plan must include a chart review (number of charts determined by physician & APRN) and nature & frequency of the meetings required in statute (see Table 3).
Document Retention	TMB Rule required physician to retain documents forever.	Physician and APRN must retain documentation for 2 years from the date the agreement is terminated.
Document Review	Review annually, sign and date	Same

[i] The definition of "dangerous drug" in Texas law includes prescription drugs that are not controlled substances and medical devices. Therefore, APRNs with prescriptive authority have always been able to prescribe medical devices. However, there was confusion regarding the authority of APRNs to order durable medical equipment. Therefore, SB 406 includes the term "device" and defines it to include "durable medical equipment."

[ii] The provision permitting physicians to request waivers for most site-based and supervisory requirements was repealed because most site-based requirements were repealed.

[iii] The "medically underserved" designation was retained in SB 406 in order to continue not limiting the number of APRNs to whom one physician could delegate prescriptive authority in these sites. Even though the definition no longer includes practices located in MUAs, all practices that were designated as a site serving a medically underserved population prior to March 1, 2013, will continue to have no physician to APRN ratio for purposes of delegating prescriptive authority in those sites.