

Background: Prescriptive Authority Agreement

The prescribing of drugs and devices is the practice of medicine. Physicians may delegate if appropriate but must supervise in accordance with the standard of care. Physicians ultimately may be held accountable for the delegation and supervision of medical acts.

Senate Bill 406 (83rd Texas Legislature, Regular Session 2013) amended Chapter 157 of the Texas Occupations Code by removing site-based requirements for the delegation and supervision of prescriptive authority. It replaced them with a framework that requires the use of prescriptive authority agreements (PAAs) in most practice settings, the development of a quality assurance plan, and regular quality assurance meetings. The SB 406 changes are effective Nov. 1, 2013. See TMA's sample PAA form (URL to come).

There is no independent practice for advanced practice registered nurses (APRNs) and physician assistants (PAs) in Texas. SB 406 recognizes this and ensures that the physician maintains the responsibility and flexibility for delegation and supervision. More broadly, the bill supports the concept of the physician-led health care team as a way to provide greater access to care. PAAs are required in all practice settings for the delegation of prescriptive authority with the exception of facility-based practice, which is limited to hospitals and long-term care facilities. See Tex. Occ. Code §157.0512 and 157.054.

A PAA is defined as “an agreement entered into by a physician and an advanced practice registered nurse or physician assistant through which the physician delegates to the advanced practice registered nurse or physician assistant the act of prescribing or ordering a drug or device.” Tex. Occ. Code § 157.051(14). Although the PAA authorizes the delegation of prescriptive authority, the APRN or PA must be under adequate physician supervision, so a physician should ensure that he or she delegates and supervises in accordance with the standard of care. The PAA may include other provisions agreed to by the physician and APRN or PA, but it must meet the following minimum requirements:

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 APRN or PA to whom the physician has delegated prescriptive authority related to the care and treatment of patients;

NOTICE: This information is provided as a commentary on legal issues and is not intended to provide advice on any specific legal matter. This information should NOT be considered legal advice and receipt of it does not create an attorney-client relationship. This is not a substitute for the advice of an attorney. The Texas Medical Association provides this information with the express understanding that 1) no attorney-client relationship exists, 2) neither TMA nor its attorneys are engaged in providing legal advice and 3) that the information is of a general character. Although TMA has attempted to present materials that are accurate and useful, some material may be outdated and TMA shall not be liable to anyone for any negligence, inaccuracy, error or omission, regardless of cause, or for any damages resulting therefrom. Any legal forms are only provided for the use of physicians in consultation with their attorneys. You should not rely on this information when dealing with personal legal matters; rather legal advice from retained legal counsel should be sought.



Physicians Caring for Texans

continued on the back

8. If alternate physician supervision is to be used, designate one or more alternate physicians who may provide appropriate supervision on a temporary basis in accordance with the requirements established by the PAA; and
9. Describe a prescriptive-authority quality assurance and improvement plan, and specify methods for documenting its implementation that include chart review and periodic face-to-face meetings.

See Tex. Occ. Code §157.0512 for more information about the requirements of a PAA.

Some additional changes SB 406 made are as follows:

- Physicians may delegate prescribing authority to up to seven APRNs/PAs, or their full-time equivalents.
- SB 406 replaced the site-based supervision requirements with a requirement that the physician and those to whom a physician delegates prescriptive authority must have regular, documented quality assurance meetings. In general, these regular meetings should occur at a minimum monthly, but the minimum established in statute can be modified to quarterly based on the length of practice between the physician and the APRN or PA. A physician may hold these meetings more frequently than the minimums provided in statute. See Tex. Occ. Code §157.052 and Texas Medical Board (TMB) rules for details.
- SB 406 specifically provides that the delegating physician MAY include more frequent quality assurance meetings and other provisions or requirements relating to the delegation and supervision than what is required by statute to be included in the PAA.
- Physicians in hospital facilities and hospice may delegate only schedule II prescribing authority, if appropriate, under limited circumstances. Schedule II prescribing authority may be delegated for a patient who has been certified in writing with a terminal illness, has elected to receive hospice, and is receiving hospice treatment from a qualified hospice provider. For a patient in a hospital facility, a physician may delegate schedule II only in accordance with policies approved by the hospital's medical staff as provided by the hospital bylaws to ensure patient safety, and for a patient who has been admitted for an intended length of stay of 24 hours or greater, or is receiving services in the emergency department.
- TMB, the Texas Board of Nursing (TBON) and the Texas Physician Assistant Board (TPAB) shall share information related to their licensees pertaining to delegations, investigations, and outcomes of disciplinary proceedings. A board that receives notice about an investigation or disciplinary action may open an investigation against its licensee.
- TMB, TBON, and TPAB shall maintain a publicly available and searchable online list of physicians, APRNs, and PAs who have entered into a PAA, identifying to whom each has entered into a PAA.
- TMB will collaborate with TBON and TPAB to maintain and make publicly available a list of physicians, APRNs, and PAs who are prohibited from entering into or practicing under a PAA.
- As was previously the law, the physician must register with TMB the name and license number of the PA or APRN to whom a delegation is made. See Tex. Occ. Code § 157.0511(b-2).

APRNs and PAs bring valuable skills to the team and should practice to the highest level of their training for the benefit of good patient care. Ultimately, however, the responsibility for coordinating, supervising, and managing the team rests with the physician.

This summary provides general information. For more information on the requirements pertaining to delegation and supervision of prescriptive authority, physicians should review Chapter 157, Texas Occupations Code, and Texas Medical Board rules.



Physicians Caring for Texans