

## **Texas Changes Rules Regarding Delegation of Prescriptive Authority by Physicians**

Texas has recently had a significant revision regarding the ability of physicians to delegate prescribing devices, drugs and other controlled substances to advanced practice registered nurses (APRNs) and physician assistants (PAs). SB 406, which was passed in the 2013 Texas legislature, has recently been implemented through new Texas Board of Nursing (BON) and Texas Medical Board (TMB) regulations.

SB 406 substantially revises Chapter 157 of the Texas Occupations Code, which governs the authority of a physician to delegate certain medical acts, and expands the ability of APRNs and PAs to prescribe or order Schedule II controlled substances in certain practice settings. SB 406 also eliminates the old concept of “alternate” and “primary” practice site requirements and authorizes the use of a “Prescriptive Authority Agreement” (PAA) in order to delegate prescription writing authority to APRNs and PAs. The new statute increases to seven (from four) the number of APRNs and PAs to whom a physician can delegate prescribing authority, and provides an exception to that limit when the PAA is exercised in a facility-based practice or elsewhere. However, the new rules also have increased the continuing education requirements of APRNs who receive this delegation of authority and provide for substantial documentation requirements, as well as enforcement actions by the BON, the Texas Medical Board and the Texas Physician Assistant Board.

Because of the new statute, the Texas BON repealed Chapter 222, Title 22, of the Texas Administrative Code and replaced it with a new Chapter 222, effective November 20, 2013. Additionally, Chapter 193, Title 22, of the Texas Administrative Code regarding Standing Delegation Orders for Physicians was amended by the TMB, effective November 7, 2013.

Below is a summary of the changes and new requirements for the delegation of prescriptive authority by physicians:

- Physicians may delegate to advanced practice registered nurses (APRNs) and physician assistants (PAs) the act of prescribing or ordering a drug or device through a prescriptive authority agreement (PAA).
- The combined number of APRNs and PAs with whom a physician may enter into a PAA is seven.
- There is an exception to the limit of seven when PAAs are exercised in facility-based practices in hospitals or long-term care facilities, subject to certain limitations, and in practices serving medically underserved populations.

- Prescribing under a PAA eliminates former requirements for site-based supervision.
- Delegating physicians remain responsible to the Texas Medical Board (TMB) and their patients for acts performed under the physician's delegated authority.
- Delegation of the prescriptive authority for Schedule II drugs is prohibited, except in facility-based practices.
- The constant physical presence of a physician is not required under a PAA.
- Physicians must register information with the TMB regarding PAAs entered into with APRNs and PAs.
- A PAA at a minimum must:
  - be in writing, signed and dated by the parties;
  - state the name, address, and all professional license numbers of the parties;
  - state the nature of the practice, location or setting;
  - identify the types of categories of drugs or devices that may be ordered or prescribed;
  - provide a general plan for addressing consults and referrals;
  - provide a plan for addressing patient emergencies;
  - describe how the communication and sharing of information between the parties will be accomplished;
  - designate an alternate delegating physician, if one is to be utilized; and
  - describe a QA and QI plan, including:
    - chart review; and
    - periodic face-to-face meetings
- PAAs must be reviewed at least annually and must be dated and signed by the parties.
- A physician must notify the TMB within 30 days of termination of a PAA.
- An APRN or PA may prescribe without a PAA at a facility-based practice if there are protocols or other written authorization developed in accordance with medical staff policies.
- A APRN who prescribes controlled substances must complete an additional three (3) hours of continuing education related to prescribing controlled substances each biennium.
- The TMB, Board of Nursing (BON) and Physician Assistants Board (PAB) will maintain and exchange information with one another as well as creating and making available to the public, an online list of physicians, APRNs, and PAs who have entered into PAAs.
- The TMB, BON and PAB have the authority to enter, with reasonable notice, a site where a party to a PAA is practicing, to inspect and audit records or activities related to the implementation and operation of the agreement.