

Texas Medical Board

Quick Reference – Site-Specific Prescriptive Delegation Statute & Rule Chart

Use the table below to compare requirements between the four site types. Click on the underlines to see the relevant statute or rule. Excerpts from the full statute and rule regarding prescriptive delegation are at the end of this document.

	Sites Serving Certain Medically Underserved Populations	Prescribing at Physician Primary Practice Sites	Prescribing at Alternate Sites	Prescribing at Facility-Based Practice Sites
Statute	Tex. Occ. Code, Sec. 157.052 . Prescribing at Sites Serving Certain Medically Underserved Populations	Tex. Occ. Code, Sec. 157.053 . Prescribing at Physician Primary Practice Sites	Tex. Occ. Code, Sec. 157.0541 . Prescribing at Alternate Sites	Tex. Occ. Code, Sec. 157.054 . Prescribing at Facility-Based Practice Sites
Board Rule	Tex. Admin. Code, Sec. 193.6(b) . Delegation of prescriptive authority at site serving underserved populations.	Tex. Admin. Code, Sec. 193.6(c) . Delegation of prescriptive authority at primary practice site.	Tex. Admin. Code, Sec. 193.6(d) . Delegation of prescriptive authority at a physician's alternate practice site.	Tex. Admin. Code, Sec. 193.6(e) . Delegation of prescriptive authority at a facility-based practice site.
Site Definition, Requirements	Must meet MUP definition	Must meet primary practice site definition	Must meet alternate practice site definition	Facility-based means: <ul style="list-style-type: none"> • 1 licensed hospital • Up to 2 licensed long-term care facilities
Distance Limitations	N/A	N/A	Delegating physician: <ul style="list-style-type: none"> • lives/has primary practice site within 75 miles • May seek waiver of this requirement 	N/A
Delegating Physician Requirements	<ul style="list-style-type: none"> • Cannot supervise more than three clinics without approval of the board. • Cannot supervise any number of clinics with combined regular business hours exceeding 150 concurrent hours per week without approval of the board. 	Not addressed	Not addressed	Delegating physician must hold specific position
PA/APN FTE Limits	Board rule regarding employment guidelines of PAs states that a physician may supervise up to five physician assistants, or their full-time equivalents . "Full time" shall mean no more than 50 hours per week.	Four PAs or APNs or their full-time equivalent at the physician's primary practice site and alternate practice site combined.	Four PAs or APNs or their full-time equivalent at the physician's primary practice site and alternate practice site combined.	<ul style="list-style-type: none"> • Long term care <ul style="list-style-type: none"> ○ Four PAs or APNs or their full-time equivalent • Licensed hospital <ul style="list-style-type: none"> ○ Unlimited

	Sites Serving Certain Medically Underserved Populations	Prescribing at Physician Primary Practice Sites	Prescribing at Alternate Sites	Prescribing at Facility-Based Practice Sites
Site Visit Requirements	Delegating physician is <u>on-site, during regular business hours, at least once every 10 business days</u> during which the APN or PA is on-site providing care	N/A	Delegating physician <u>is on-site with the APN or PA at least 10 percent of the time</u>	N/A
Chart Review Requirements	During site visits, delegating physician verifies patient care is provided by the clinic in accordance with a written quality assurance plan, which includes <u>a random review and countersignature of at least 10% of the patient charts</u>	Not addressed.	Delegating physician <u>reviews at least 10 percent of the medical charts</u> , including through electronic review of the charts from a remote location, for each APN or PA at the site	Not addressed.
Supervision Requirements	<p><u>Delegating physician:</u></p> <ul style="list-style-type: none"> is responsible for the formulation or approval of the orders or protocols, as well as the review receives a daily status report on any problem or complication encountered; and is available through direct telecommunication 	<ul style="list-style-type: none"> A physician shall provide <u>continuous supervision</u>, but the constant physical presence of the physician is not required. Physician supervision of the carrying out and signing of prescription drug orders must <u>conform to what a reasonable, prudent physician would find consistent with sound medical judgment</u> but may vary with the education and experience of the particular APN or PA. 	Delegating physician <u>is available through direct telecommunication</u> for consultation, patient referral, or assistance with a medical emergency;	<ul style="list-style-type: none"> A physician shall provide <u>continuous supervision</u>, but the constant physical presence of the physician is not required. Delegation must be made under a <u>physician's order, standing medical order, standing delegation order</u>, or another order or protocol approved by the facility Licensed Hospital - Delegation <u>must occur in the facility in which the physician is the medical director</u>, the chief of medical staff, the chair of the credentialing committee, or a department chair; No delegation for care or treatment of patients of <u>any other physician without the prior consent</u> of that physician Long Term Care Facility - delegation in a long-term care facility <u>must be by the medical director</u>

	Sites Serving Certain Medically Underserved Populations	Prescribing at Physician Primary Practice Sites	Prescribing at Alternate Sites	Prescribing at Facility-Based Practice Sites
Patient Relationships	Not addressed.	Physician must have <u>established or will establish a physician-patient relationship</u> , but the physician is not required to see the patient within a specific period.	Not addressed.	Not addressed.
Alternate Supervising Physicians	Not addressed.	<u>Allowed on a temporary basis.</u>	<u>Allowed on a temporary basis.</u>	<u>Allowed on a temporary basis.</u>
Advertising Requirements	<u>An advertisement</u> for a site serving a medically underserved population must include the name and business address of the supervising physician for the site.	Not addressed.	Not addressed.	Not addressed.

	Sites Serving Certain Medically Underserved Populations	Prescribing at Physician Primary Practice Sites	Prescribing at Alternate Sites	Prescribing at Facility-Based Practice Sites
<p>Waivers, Modifications</p>	<ul style="list-style-type: none"> • May request waiver or modification of any site or supervision requirements. • Must meet certain conditions. • No need for distance waiver requests; it's not limited in this setting. <p><u>FTE Limit</u> Although statute does not address an FTE limit in this setting for prescriptive delegation, board rule limits the number of PAs supervised to 6. No need for waiver request as long as number of PAs supervised is 6 or fewer.</p>	<p><u>General</u></p> <ul style="list-style-type: none"> • May request waiver or modification of any site or supervision requirements. • Must meet certain conditions. • Board cannot waive limit on number of APNs/PAs except as provided by Tex. Occ. Code, Sec. 157.0542(b-1)(1). <p><u>Tex. Occ. Code, Sec. 157.0542 (b-1)</u></p> <p><u>FTE Limit</u> May request waiver of FTE Limit of 4 to no more than 6</p> <p><u>On-Site Supervision</u> May request waiver of 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</p> <p>Note: <u>Tex. Occ. Code, Sec. 157.0542 (b-1)</u> waiver language specifies alternate sites, but author wrote letter of intent to include primary practice sites</p>	<p><u>General</u></p> <ul style="list-style-type: none"> • May request waiver or modification of any site or supervision requirements. • Must meet certain conditions. • Board cannot waive limit on number of APNs/PAs except as provided by Tex. Occ. Code, Sec. 157.0542(b-1)(1). <p><u>Tex. Occ. Code, Sec. 157.0542 (b-1)(1)</u></p> <p><u>FTE Limit</u> May request waiver of FTE Limit of 4 to no more than 6</p> <p><u>Distance</u> May request waiver of distance limit</p> <p><u>On-Site Supervision</u> May request waiver of 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</p>	<ul style="list-style-type: none"> • May request waiver or modification of any site or supervision requirements. • Must meet certain conditions. • Board cannot waive FTE limit in long-term care facilities; statutory exception does not include that setting • No need for FTE waiver requests in hospital settings; they're not limited.

Excerpts from Statute and Board Rule

Prescriptive Delegation at Sites Serving Medically Underserved Populations

Statute:

Tex. Occ. Code, Sec. 157.052. PRESCRIBING AT SITES SERVING CERTAIN MEDICALLY UNDERSERVED POPULATIONS.

(a) In this section:

(1) "Health manpower shortage area" means:

(A) an urban or rural area of this state that:

(i) is not required to conform to the geographic boundaries of a political subdivision but is a rational area for the delivery of health service;

(ii) the secretary of health and human services determines has a health manpower shortage; and

(iii) is not reasonably accessible to an adequately served area;

(B) a population group that the secretary of health and human services determines has a health manpower shortage; or

(C) a public or nonprofit private medical facility or other facility that the secretary of health and human services determines has a health manpower shortage, as described by 42 U.S.C. Section 254e(a)(1).

(2) "Medically underserved area" means:

(A) an area in this state with a medically underserved population;

(B) an urban or rural area designated by the secretary of health and human services as an area in this state with a shortage of personal health services or a population group designated by the secretary as having a shortage of those services, as described by 42 U.S.C. Section 300e-1(7); or

(C) an area defined as medically underserved by rules adopted by the Texas Board of Health based on:

(i) demographics specific to this state;

(ii) geographic factors that affect access to health care; and

(iii) environmental health factors.

(3) "Registered nurse" means a registered nurse recognized by the Texas Board of Nursing as having the specialized education and training required under Section 301.152.

(4) "Site serving a medically underserved population" means:

(A) a site located in a [medically underserved area](#);

(B) a site located in a [health manpower shortage area](#);

(C) a clinic designated as a rural health clinic under 42 U.S.C. Section 1395x(aa);

(D) a public health clinic or a family planning clinic under contract with the Texas Department of Human Services or the Texas Department of Health;

(E) a site located in an area in which the Texas Department of Health determines there is an insufficient number of physicians providing services to eligible clients of federal, state, or locally funded health care programs; or

(F) a site that the Texas Department of Health determines serves a disproportionate number of clients eligible to participate in federal, state, or locally funded health care programs.

(b) After making a determination under this section that a site serves a medically underserved population, the Texas Department of Health shall publish notice of its determination in the Texas Register and provide an opportunity for public comment in the manner provided for a proposed rule under Chapter 2001, Government Code.

(c) At a site serving a medically underserved population, a physician licensed by the board may delegate to a registered nurse or physician assistant acting under adequate physician supervision the act of administering, providing, or carrying out or signing a prescription drug order, as authorized by the physician through a physician's order, a standing medical order, a standing delegation order, or another order or protocol as defined by the board.

(d) An advertisement for a site serving a medically underserved population must include the name and business address of the supervising physician for the site.

(e) Physician supervision is adequate for the purposes of this section if a delegating physician:

(1) is responsible for the formulation or approval of the physician's order, standing medical order, standing delegation order, or other order or protocol, and periodically reviews the order and the services provided patients under the order;

(2) is on-site to provide medical direction and consultation at least once every 10 business days during which the advanced practice nurse or physician assistant is on-site providing care;

(3) receives a daily status report from the advanced practice nurse or physician assistant on any problem or complication encountered; and

(4) is available through direct telecommunication for consultation, patient referral, or assistance with a medical emergency.

Board Rule:

Tex. Admin. Code, Sec. 193.6(b) Delegation of prescriptive authority at site serving underserved populations.

(1) Acts that may be delegated. At a site serving a medically underserved population, a physician authorized by the board may delegate to a physician assistant or an advanced practice nurse the act or acts of administering, providing, or carrying out or signing a prescription drug order as authorized through physician's orders, standing medical orders, standing delegation orders, or other orders or protocols as defined by the board. Providing and carrying out or signing a prescription drug order under this subdivision is limited to dangerous drugs and controlled substances Schedules III - V as provided under subsection (n) of this section, and shall comply with other applicable laws.

(2) Physician supervision at site serving medically underserved populations. Physician supervision of a physician assistant or an advanced practice nurse at a site serving a medically underserved population will be adequate if a delegating physician:

(A) receives a daily status report to be conveyed in person, by telephone, or by radio from the advanced practice nurse or physician assistant on any complications or problems encountered that are not covered by a protocol;

(B) visits the clinic in person at least once every ten business days during regular business hours during which the advanced practice nurse or physician assistant is on site providing care, in order to observe and provide medical direction and consultation to include, but not be limited to:

(i) reviewing with the physician assistant or advanced practice nurse the case histories of patients with problems or complications encountered;

(ii) personally diagnosing or treating patients requiring physician follow-up; and

(iii) verifying that patient care is provided by the clinic in accordance with a written quality assurance plan on file at the clinic, which includes a random review and countersignature of at least 10% of the patient charts by the physician;

(C) is available by telephone or direct telecommunication for consultation, assistance with medical emergencies, or patient referrals; and

(D) is responsible for the formulation or approval of such physician's orders, standing medical orders, standing delegation orders, or other orders or protocols and periodically reviews such orders and the services provided to patients under such orders.

(3) Supervision of clinics. A physician may not supervise more than three clinics serving medically underserved populations without approval of the board. A physician may not supervise any number of clinics with combined regular business hours exceeding 150 concurrent hours per week without approval of the board.

Prescriptive Delegation at Primary Practice Sites

Statute:

Tex. Occ. Code, Sec. 157.053. PRESCRIBING AT PHYSICIAN PRIMARY PRACTICE SITES.

(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:

(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.

(b) At a physician's primary practice site, a physician licensed by the board may delegate to a physician assistant or an advanced practice nurse acting under adequate physician supervision the act of administering, providing, or carrying out or signing a prescription drug order as authorized through a physician's order, a standing medical order, a standing delegation order, or another order or protocol as defined by the board.

(c) Physician supervision of the carrying out and signing of prescription drug orders must conform to what a reasonable, prudent physician would find consistent with sound medical judgment but may vary with the education and experience of the particular advanced practice nurse or physician assistant. A physician shall provide continuous supervision, but the constant physical presence of the physician is not required.

(d) An alternate physician may provide appropriate supervision on a temporary basis as defined and [established by board rule](#).

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

(1) four 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(b-1); and

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

(f) For purposes of Subsection (e)(2), the physician is not required to see the patient within a specific period.

Board Rule:

Tex. Admin. Code, Sec. 193.6(c) Delegation of prescriptive authority at primary practice site.

(1) "Primary practice site" means:

(A) the practice location where the physician spends the majority of the physician's time;

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

(C) a clinic operated by or for the benefit of a public school district for the purpose of providing 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 the Family Code, Chapter 32;

(D) an established patient's residence;

(E) where the physician is physically present with the physician assistant or advanced practice nurse; or

(F) 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 provides:

(i) health care services for established patients;

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

(iii) 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 Texas.

(2) Acts that may be delegated. At a physician's primary practice site, a licensed physician authorized by the board may delegate to a physician assistant or an advanced practice nurse acting under adequate physician supervision the act or acts of administering, providing, carrying out or signing a prescription drug order as authorized through physician's orders, standing medical orders, standing delegation orders, or other orders or protocols as defined by the board. Providing and carrying out or signing a prescription drug order under this subdivision is limited to dangerous drugs and controlled substances Schedules III - V as provided in subsection (n) of this section, and shall comply with other applicable laws.

(3) Physician supervision. Physician supervision of the carrying out and signing of prescription drug orders shall conform to what a reasonable, prudent physician would find consistent with sound medical judgment but may vary with the education and experience of the advanced practice nurse or physician assistant. A physician shall provide continuous supervision, but the constant physical presence of the physician is not required.

(4) Additional limitations. A physician's authority to delegate the carrying out or signing of a prescription drug order under this subsection is limited to:

(A) four physician assistants or advanced practice nurses or their full-time equivalents practicing at the physician's primary or alternate practice site, unless a waiver is granted under subsection (i) of this section; and

(B) the patients with whom the physician has established or will establish a physician-patient relationship, but this shall not be construed as requiring the physician to see the patient within a specific period of time.

Prescriptive Delegation at Facility-Based Practice Sites

Statute:

Tex. Occ. Code, Sec. 157.054. PRESCRIBING AT FACILITY-BASED PRACTICE SITES.

(a) A physician licensed by the board may delegate, to one or more physician assistants or advanced practice nurses acting under adequate physician supervision whose practice is facility-based at a licensed hospital or licensed long-term care facility, the administration or provision of a drug and the carrying out or signing of a prescription drug order if the physician is:

- (1) the medical director or chief of medical staff of the facility in which the physician assistant or advanced practice nurse practices;
- (2) the chair of the facility's credentialing committee;
- (3) a department chair of a facility department in which the physician assistant or advanced practice nurse practices; or
- (4) a physician who consents to the request of the medical director or chief of medical staff to delegate the carrying out or signing of a prescription drug order at the facility in which the physician assistant or advanced practice nurse practices.

(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 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.

(c) Physician supervision of the carrying out and signing of prescription drug orders must conform to what a reasonable, prudent physician would find consistent with sound medical judgment but may vary with the education and experience of the particular advanced practice nurse or physician assistant. A physician shall provide continuous supervision, but the constant physical presence of the physician is not required.

(d) An alternate physician may provide appropriate supervision on a temporary basis [as defined and established by board rule](#).

Board Rule:

Tex. Admin. Code, Sec. 193.6(e) Delegation of prescriptive authority at a facility-based practice site.

(1) Acts that may be delegated. A licensed physician authorized by the board shall be authorized to delegate, to one or more physician assistants or advanced practice nurses acting under adequate physician supervision whose practice is facility based at a licensed hospital or licensed long-term care facility, the carrying out or signing of prescription drug orders if the physician is the medical director or chief of medical staff of the facility in which the physician assistant or advanced practice nurse practices, the chair of the facility's credentialing committee, a department chair of a facility department in which the physician assistant or advanced practice nurse practices, or a physician who consents to the request of the medical director or chief of medical staff to delegate the carrying out or signing of prescription drug orders at the facility in which the physician assistant or advanced practice nurse practices. Providing and carrying out or signing a prescription drug order under this subdivision is limited to dangerous drugs and controlled substances Schedules III - V as provided in subsection (n) of this section, and shall comply with other applicable laws.

(2) Limitations on authority to delegate. A physician's authority to delegate under this subsection is limited as follows:

(A) the delegation is pursuant to a physician's order, standing medical order, standing delegation order, or other order or protocol developed in accordance with policies approved by the facility's medical staff or a committee thereof as provided in facility bylaws;

(B) the delegation occurs 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;

(C) the delegation does 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;

(D) delegation in a long-term care facility must be by the medical director and the medical director is limited to delegating the carrying out and signing of prescription drug orders to no more than four advanced practice nurses or physician assistants or their full-time equivalents; and

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

(3) Physician supervision. Physician supervision of the carrying out and signing of a prescription drug order shall conform to what a reasonable, prudent physician would find consistent with sound medical judgment but may vary with the education and experience of the advanced practice nurse or physician assistant. A physician shall provide continuous supervision, but the constant physical presence of the physician is not required.

Prescriptive Delegation at Alternate Practice Sites

Statute:

Tex. Occ. Code, Sec. 157.0541. PRESCRIBING AT ALTERNATE SITES.

(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 miles of the delegating physician's residence or primary practice site.

(b) At an alternate site, a physician licensed by the board may delegate to an advanced practice nurse or physician assistant, acting under adequate physician supervision, the act of administering, providing, or carrying out or signing a prescription drug order as authorized through a physician's order, a standing medical order, a standing delegation order, or another order or protocol as defined by the board.

(c) Physician supervision is adequate for the purposes of this section if:

(1) the delegating physician:

(A) is on-site with the advanced practice nurse or physician assistant at least 10 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;

(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.

(d) An alternate physician may provide appropriate supervision to an advanced practice nurse or physician assistant under this section on a temporary basis [as provided by board rule](#).

(e) Unless a waiver is granted under Section 157.0542(b-1), 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 physician assistants or advanced practice nurses or the full-time equivalent of four physician assistants or advanced practice nurses.

Board Rule:

Tex. Admin. Code, Sec. 193.6(d) Delegation of prescriptive authority at a physician's alternate practice site.

(1) "Alternate practice site" means a site:

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

(B) located within 75 miles of the delegating physician's residence or primary practice site.

(2) Acts that may be delegated. At a physician's alternate practice site, a licensed physician authorized by the board may delegate to a physician assistant or an advanced practice nurse acting under adequate physician supervision the act or acts of administering, providing, carrying out or signing a prescription drug order as authorized through physician's orders, standing medical orders, standing delegation orders, or other orders or protocols as defined by the board. Providing, carrying out or signing a prescription drug order under this subsection is limited to dangerous drugs and controlled substances Schedules III - V as provided in subsection (n) of this section, and shall comply with other applicable laws.

(3) Physician supervision is adequate for the purposes of this subsection if the delegating physician:

(A) is on-site with the advanced practice nurse or physician assistant at least 10 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 to or to be provided by the physician assistant or advanced practice nurse to whom the physician has delegated prescriptive authority;

(B) randomly reviews at least 10 percent of the medical charts, including through electronic review of the charts from a remote location, of patients seen by a physician assistant or advanced practice nurse at the site;

(C) is available through direct telecommunication for consultation, patient referral, or assistance with a medical emergency; and

(D) 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.

(4) A physician may not delegate to a combined number of more than four physician assistants or advanced practice nurses or their full-time equivalents at the physician's primary and alternate practice sites, unless a waiver is granted under subsection (i) of this section.

Waiver of Prescriptive Delegation Requirements

Statute:

Tex. Occ. Code, Sec. 157.0542. BOARD WAIVER OF DELEGATION REQUIREMENTS.

(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) The board may grant a waiver under Subsection (a) if the board determines that:

(1) the practice site where the physician is seeking to delegate prescriptive authority is unable to meet the requirements of this chapter or board rules or compliance would cause an undue burden without a corresponding benefit to patient care;

(2) safeguards exist for patient care and for fostering a collaborative practice between the physician and the advanced practice nurses and physician assistants; and

(3) if the requirement for which the waiver is sought is the amount of time the physician is on-site, the frequency and duration of time the physician is on-site when the advanced practice nurse or physician assistant is present is sufficient for collaboration to occur, taking into consideration the other ways the physician collaborates with the advanced practice nurse or physician assistant, including at other sites.

(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).

(c) The board shall establish procedures for granting waivers under this section. At a minimum, the procedures must include a process for providing, if the board denies a waiver, a written explanation for the denial and identifying modifications that would make the waiver acceptable and a process for revoking, suspending, or modifying a waiver previously granted. The process for revoking, suspending, or modifying a waiver must include notice and an opportunity for a hearing. The board may probate an order to revoke, suspend, or modify a waiver.

Board Rule:

Tex. Admin. Code, Sec. 193.6 (i) Waivers.

(1) 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 at facilities serving medically underserved populations, at physician primary and alternate practice sites, and at facility-based practice sites.

(2) The board may grant a waiver under paragraph (1) of this subsection if the board determines that:

(A) the practice site where the physician is seeking to delegate prescriptive authority is unable to meet the requirements of Chapter 157 of the Act or this section, or compliance would cause an undue burden without a corresponding benefit to patient care;

(B) safeguards exist for patient care and for fostering a collaborative practice between the physician and the advanced practice nurses and physician assistants; and

(C) if the requirement for which the waiver is sought is the amount of time the physician is on-site, the frequency and duration of time the physician is on-site when the advanced practice nurse or physician assistant is present is sufficient for collaboration to occur, taking into consideration the other ways the physician collaborates with the advanced practice nurse or physician assistant at other sites.

(3) If the board determines that the types of health care services provided by a physician assistant or advanced practice nurse at an alternate practice site as described in subsection (d) of this section are limited in nature and duration and are within the scope of delegated authority, and that patient health care will not be adversely affect, the board may modify or waive:

(A) 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;

(B) the mileage limitation; or

(C) the onsite-supervision requirements, except that the physician must be available on-site at regular intervals and when on-site must be available to treat patients.

(4) 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 drugs orders, except as provided in paragraph (3)(A) of this subsection.

(5) Procedure.

(A) A physician may apply for a waiver by submitting a written request to the licensure division of the board via the agency website, email, or regular mail. The request shall then be submitted to the board for review.

(B) The Standing Orders Committee of the board shall review requests for waivers and may recommend to the full board that a waiver be granted, denied or modified.

(C) The board may grant a waiver only if the board determines good cause exists to grant a waiver.

(D) The board may approve a waiver with modifications.

(E) If the board denies a waiver, a written explanation for the denial shall be given to the physician along with any recommended modifications that would make the waiver application acceptable.

(F) The board may revoke, suspend or modify a waiver previously granted after providing the physician notice and opportunity for a hearing as provided for by the Administrative Procedure Act and Chapter 187 of this title (relating to Procedural Rules).

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

Board Rule Regarding Limit on Number of PAs Physicians May Supervise

Tex. Admin. Code, Sec. 185.16. Employment Guidelines.

(a) Except as otherwise provided in this section, a physician may supervise up to five physician assistants, or their full-time equivalents. "Full time" shall mean no more than 50 hours per week.

(Note: a rule change has been proposed to increase the number of PAs in this rule to six in order to be consistent with the waiver statute regarding prescriptive delegation.)

Board Rule Regarding Supervising Physicians and Alternates

Tex. Admin. Code, Sec. 185.13. Notification of Intent to Practice and Supervise.

(d) If a supervising physician will be unavailable to supervise the physician assistant as required by this section, arrangements shall be made for an alternate physician to provide that supervision. The alternate physician providing that supervision shall affirm in writing and document through a log where the physician assistant is located, that he or she is familiar with the protocols or standing delegation orders in use, and is accountable for adequately supervising care provided pursuant to those protocols or standing delegation orders. The log shall be kept with the protocols or standing orders. The log shall contain dates of the alternate physician supervision and be signed by the alternate physician acknowledging this responsibility. The physician assistant is responsible for verifying that the alternate physician is a licensed Texas physician holding an unrestricted and active license. Alternate physicians may not collectively provide supervision for more than a 30-day period. If the primary supervising physician cannot return to supervising the physician assistant after 30 days, a new primary supervising physician must provide supervision.

Delegation of Authority to Nurse Midwife/Certain PAs to Provide or Administer Controlled Substances to Their Clients

Sec. 157.059. DELEGATION REGARDING CERTAIN OBSTETRICAL SERVICES.

(a) In this section, "provide" means to supply, for a term not to exceed 48 hours, one or more unit doses of a controlled substance for the immediate needs of a patient.

(b) A physician may delegate to a physician assistant offering obstetrical services and certified by the board as specializing in obstetrics or an advanced practice nurse recognized by the Texas Board of Nursing as a nurse midwife the act of administering or providing controlled substances to the physician assistant's or nurse midwife's clients during intrapartum and immediate postpartum care.

(c) The physician may not delegate the use of a prescription sticker or the use or issuance of an official prescription form under Section 481.075, Health and Safety Code.

(d) The delegation of authority to administer or provide controlled substances under Subsection (b) must be under a physician's order, medical order, standing delegation order, or protocol that requires adequate and documented availability for access to medical care.

(e) The physician's orders, medical orders, standing delegation orders, or protocols must require the reporting of or monitoring of each client's progress, including complications of pregnancy and delivery and the administration and provision of controlled substances by the nurse midwife or physician assistant to the clients of the nurse midwife or physician assistant.

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

- (1) four 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.

(g) The controlled substance must be supplied in a suitable container that is labeled in compliance with the applicable drug laws and must include:

- (1) the patient's name and address;
- (2) the drug to be provided;
- (3) the name, address, and telephone number of the physician;
- (4) the name, address, and telephone number of the nurse midwife or physician assistant; and
- (5) the date.

(h) This section does not authorize a physician, physician assistant, or nurse midwife to operate a retail pharmacy as defined under Subtitle J.

(i) This section authorizes a physician to delegate the act of administering or providing a controlled substance to a nurse midwife or physician assistant but does not require physician delegation of:

- (1) further acts to a nurse midwife; or
- (2) the administration of medications by a physician assistant or registered nurse other than as provided

by this section.

(j) This section does not limit the authority of a physician to delegate the carrying out or signing of a prescription drug order involving a controlled substance under this subchapter.