PART 9. TEXAS MEDICAL BOARD

CHAPTER 193. STANDING DELEGATION ORDERS

The Texas Medical Board (Board) proposes the repeal of §§193.1 - 193.10 and §193.12 and new §§193.1 - 193.20, concerning Standing Delegation Orders.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED REPEAL

The current sections are proposed for repeal because new §§193.1 - 193.20 are proposed in this issue of the Texas Register. The Board has determined that due to the extensive reorganization of Chapter 193, repeal of the entire chapter and replacement with new sections is more efficient than proposing multiple amendments to make the required changes. The new sections of Chapter 193 are proposed to conform Chapter 193 with changes made to the Texas Occupation Code Annotated Chapter 157, Subchapter B, concerning delegation to advanced practice registered nurses and physician assistants, by Senate Bill 406, 83rd Legislature, Regular Session (2013). The Board is mandated under the terms of Senate Bill 406 to adopt rules implementing the changes in the Occupations Code Chapter 157.

SECTION-BY-SECTION SUMMARY

New §193.1, concerning Purpose, describes the intended purpose of Chapter 193 and sets forth its statutory basis.

New §193.2, concerning Definitions, provides definitions for important terms and phrases used in Chapter 193. New terms and phrases defined include: prescriptive authority agreement, device, facility-based practice site, health professional shortage areas (HSPA), hospital, medication order, nonprescription drug, physician group practice, practice serving a medically underserved area, prescribe or order a drug or device, and prescription drug.

New §193.3, concerning Exclusion from the Provisions of this Chapter, sets forth certain limited exclusions to the operation of the Chapter 193.

New §193.4, concerning Scope of Standing Delegation Orders, describes the scope of standing delegation orders and incorporates new terms and definitions consistent with the changes to Chapter 157 of the Occupations Code.

New §193.5, concerning Physician Liability for Delegated Acts and Enforcement, sets forth the applicable limitation on the liability of physicians based solely on signing a prescriptive authority agreement or delegation order. This section further states that delegating physicians remain responsible to the Board and their patients for acts performed under the physician's delegated authority.

New §193.6, concerning Delegation of Prescribing and Ordering Drugs and Devices, sets forth the general requirements and limitations related to the delegation and prescribing and ordering of
drugs or devices. This section prohibits the delegation of the prescriptive authority for Schedule II drugs, except in facility-based practices under §157.054 of the Occupations Code. Prescribing under prescriptive authority agreements eliminates former requirements for site-based supervision.

New §193.7, concerning Prescriptive Authority Agreements Generally, provides that physicians may delegate to advanced practice registered nurses and physician assistants the act of prescribing or ordering a drug or device through a prescriptive authority agreement and limits the combined number of advanced practice registered nurses and physician assistants with whom a physician may enter into a prescriptive authority agreement to seven. The section sets forth an exclusion to the limit of seven prescriptive authority agreements for prescriptive authority agreements being exercised in facility-based practices in hospitals, subject to the limitations set out in §193.9(c)(5), and in practices serving medically underserved populations. Prescribing under prescriptive authority agreements pursuant to this section eliminates former requirements for site-based supervision.

New §193.8, concerning Prescriptive Authority Agreements: Minimum Requirements, sets forth minimum requirements for valid prescriptive authority agreements, including requirements for periodic face-to-face meeting with the supervising physicians to discuss patient care and improvement of patient care.

New §193.9, concerning Delegation of Prescriptive Authority at Facility-Based Practice Sites, describes the requirements for delegating the prescribing or ordering of a drug or device at a facility-based practice site. This section states that the limitations on the number of advanced practice registered nurses and physician assistants delegated to under prescriptive authority agreements do not apply to a physician whose practice is facility-based under Chapter 193, subject to limitations related to long-term care facilities and the number of facility-based practices and long term care facilities at which a physician may delegate. This section also addresses requirements for physician supervision and states that the constant physical presence of a physician is not required.

New §193.10, concerning Registration of Delegation and Prescriptive Authority Agreements, describes the requirements for physicians to register information with the Board regarding prescriptive authority agreements entered into with advance practice registered nurses and physician assistants. This section also states that the Board shall maintain and exchange information with the Texas Board of Nursing and Physician Assistant Board as well as creating and making available to the public an online list of physicians, advanced practice registered nurses, and physician assistants who have entered into prescriptive authority agreements.

New §193.11, concerning Prescription Forms, provides that prescription forms shall comply with applicable rules adopted by the Board of Pharmacy.

New §193.12, concerning Prescriptive Authority Agreements, provides the Board authority to enter, with reasonable notice, a site where a party to a prescriptive authority agreement is practicing, to inspect and audit records or activities related to the implantation and operation of the agreement.
New §193.13, concerning Delegation to Certified Registered Nurse Anesthetists, authorizes the delegation of the ordering of drugs and devices to a certified nurse anesthetist in a licensed hospital or ambulatory surgical center, for the purpose of the nurse anesthetist administering an anesthetic or anesthesia-related service ordered by a physician.

New §193.14, concerning Delegation Related to Obstetrical Services, describes the authority, requirements, and limitations, related to delegating to physicians assistants offering obstetrical services and advance practice registered nurses recognized by the Texas Board of Nursing as nurse midwives, the act or acts of administering controlled substances related to intra-partum and post-partum care.

New §193.15, concerning Delegated Drug Therapy Management, describes the authorization for, and requirements, and limitations related to the delegation by physicians to pharmacists of drug therapy management.

New §193.16, concerning Delegated Administration of Immunizations or Vaccinations by a Pharmacist under Written Protocol, describes the authorization for, requirements, and limitations related to the delegation of the administration of immunizations and vaccinations to a pharmacist.

New §193.17, concerning Nonsurgical Medical Cosmetic Procedures, describes the duties and responsibilities of a physician who performs or who delegates the performance of a nonsurgical medical cosmetic procedure.

New §193.18, concerning Pronouncement of Death, authorizes physicians to receive information from Texas licensed vocational nurses through electronic communication for the purposes of making a pronouncement of death.

New §193.19, concerning Collaborative Management of Glaucoma, sets forth the minimum standards for the collaborative treatment of glaucoma.

New §193.20, concerning Immunization of Persons Over 65 by Physicians' Offices, sets forth requirements that physicians providing ongoing primary or principal care to persons over 65 (elderly persons) offer, to the extent possible, pneumococcal and influenza vaccines to each elderly person receiving care at the office.

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENTS

Scott Freshour, General Counsel for the Board, has determined that for the first five years the repeals and new sections are in effect, enforcing or administering the new sections and repeals will not have foreseeable implications relating to costs or revenues of state or local governments.

PUBLIC BENEFITS AND COSTS

Mr. Freshour also has determined that, for each of the first five years the repeals and new sections are in effect, the public benefit expected as a result of enforcing the new sections and
repeals will be consistency with the new, amended provisions of the Occupations Code dealing with delegation to advanced practice registered nurses and physician assistants, particularly the delegation of prescriptive authority. An additional public benefit will be an increase in services provided to Texas citizens by physicians' mid-level providers, due to the elimination of site specific supervision requirements, as well as improved and efficient oversight of physician delegation by the Board. Additionally, the public will be benefited by clear standards governing the performance or delegation by a physician of nonsurgical medical cosmetic procedures.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Freshour also has determined that a local employment impact statement is not required because the proposed new sections and repeals do not adversely affect a local economy in a material way for the first five years that the news sections and repeals will be in effect and will impose no new requirements on local economies.

Mr. Freshour has also determined that there will be no adverse economic effect on small businesses or micro-businesses as a result of the new sections and repeals. Mr. Freshour has further determined that there is no anticipated economic cost to persons who are otherwise required to comply with the new rules and repeals. Therefore, no regulatory flexibility analysis is necessary.

REGULATORY IMPACT ANALYSIS

Mr. Freshour also has determined that the proposed repeals and new sections are not subject to Texas Government Code §2001.0225 because they are not major environmental rules under that section.

TAKINGS IMPACT ASSESSMENT

Mr. Freshour also has determined that the promulgation and enforcement of the proposed repeals and new sections will constitute neither a statutory nor a constitutional taking of private real property. The proposed repeals and new sections do not adversely affect a landowner's rights in private real property, in whole or in part, temporarily or permanently, because the repeals and new sections do not impose a burden or restrict or limit the owner's right to property. Therefore, the proposed repeals and new sections do not constitute a taking under Texas Government Code Chapter 2007.

SUBMITTAL OF COMMENTS

Comments on the content of this proposal will be accepted for 30 days following publication and may be submitted to Robert Blech, P.O. Box 2018, Austin, Texas 78768-2018 or emailed to robert.blech@oag.state.tx.us.

22 TAC §§193.1 - 193.10, 193.12
STATUTORY AUTHORITY

The repeals are proposed under the authority of Texas Occupations Code Annotated, §153.001, which provides authority for the Board to adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine in this state; enforce this subtitle; and establish rules related to licensure.


§193.1.Purpose.

§193.2.Definitions.

§193.3.Exclusion from the Provisions of this Chapter.

§193.4.Scope of Standing Delegation Orders.

§193.5.Enforcement.

§193.6.Delegation of the Carrying Out or Signing of Prescription Drug Orders to Physician Assistants and Advanced Practice Nurses.

§193.7.Delegated Drug Therapy Management.

§193.8.Delegated Administration of Immunizations or Vaccinations by a Pharmacist under Written Protocol.

§193.9.Pronouncement of Death.


This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 30, 2013.

TRD-201303692

Mari Robinson, J.D.
Executive Director
Texas Medical Board
Earliest possible date of adoption: October 13, 2013
For further information, please call: (512) 305-7016

22 TAC §§193.1 - 193.20

STATUTORY AUTHORITY

The new sections are proposed under the authority of Texas Occupations Code Annotated, §153.001, which provides authority for the Board to adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine in this state; enforce this subtitle; and establish rules related to licensure.


§193.1. Purpose.

(a) The purpose of this chapter is to encourage the more effective utilization of the skills of physicians by establishing guidelines for the delegation of health care tasks to qualified non-physicians providing services under reasonable physician control and supervision where such delegation is consistent with the patient's health and welfare; and to provide guidelines for physicians in order that existing legal constraints should not be an unnecessary hindrance to the more effective provision of health care services. Texas Occupations Code Annotated, §§164.001, 164.052, and 164.053 empower the Texas Medical Board to cancel, revoke or suspend the license of any practitioner of medicine upon proof that such practitioner is guilty of failing to supervise adequately the activities of persons acting under the physician's supervision, allowing another person to use his license for the purpose of practicing medicine, or of aiding or abetting, directly or indirectly, the practice of medicine by a person or entity not licensed to do so by the board. The board recognizes that the delivery of quality health care requires expertise and assistance of many dedicated individuals in the allied health profession. The provisions of this chapter are not intended to, and shall not be construed to, restrict the physician from delegating administrative and technical or clinical tasks not involving the exercise of medical judgment, to those specially trained individuals instructed and directed by a licensed physician who accepts responsibility for the acts of such allied health personnel. The board recognizes that statutory law shall prevail over any rules adopted and that the practice of medicine is, under Texas Occupations Code Annotated, §151.002(13), defined as follows: A person shall be considered to be practicing medicine within the Medical Practice Act:

(1) who shall publicly profess to be a physician or surgeon and shall diagnose, treat, or offer to treat, any disease or disorder, mental or physical, or any physical deformity or injury, by any system or method, or to effect cures thereof; or
(2) who shall diagnose, treat, or offer to treat any disease or disorder, mental or physical or any physical deformity or injury by any system or method and to effect cures thereof and charge therefor, directly or indirectly, money or other compensation.

(b) Likewise, nothing in this chapter shall be construed as to prohibit a physician from instructing a technician, assistant, or nurse to perform delegated tasks so long as the physician retains supervision and control of the technician, assistant, or employee. Nothing in this chapter should be construed to relieve the supervising physician of the professional or legal responsibility for the care and treatment of those persons with whom the delegating physician has established a physician-patient relationship. Nothing in this chapter shall enlarge or extend the applicable statutory law relating to the practice of medicine, or other rules and regulations previously promulgated by the board.

§193.2 Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the contents clearly indicate otherwise.

(1) Advanced practice registered nurse--A registered nurse approved by the Texas Board of Nursing to practice as an advanced practice nurse on the basis of completion of an advanced educational program. The term includes an advanced nurse practitioner, a nurse midwife, nurse anesthetist, clinical nurse specialist, and advanced practice nurse, as defined by Texas Occupations Code Annotated, §301.152.

(2) Authorizing physician--A physician or physicians licensed by the board who execute a standing delegation order or prescriptive authority agreement.

(3) Controlled substance--A substance, including a drug, an adulterant, and a dilutant, listed in Schedules I through V or Penalty Groups 1, 1-A, or 2 through 4 as described under the Texas Health and Safety Code, Chapter 481 (Texas Controlled Substances Act). The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance.

(4) Dangerous drug--A device or a drug that is unsafe for self medication and that is not included in Schedules I through V or Penalty Groups I through 4 of the Texas Health and Safety Code, Chapter 481 (Texas Controlled Substances Act). The term includes a device or a drug that bears or is required to bear the legend: "Caution: federal law prohibits dispensing without prescription".

(5) Device--Means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including a component part or accessory, that is required under federal or state law to be ordered or prescribed by a practitioner, as defined by §551.003 of the Occupations Code.

(6) Facility based practice site--A hospital, as defined by §157.051(6) of the Act and this chapter, or a licensed long term care facility. A facility based practice does not include a freestanding
(7) Health professional shortage area (HPSA)--

(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 services;

(ii) the secretary of health and human services determines has a health professional 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 professional 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 professional shortage, as described by 42 U.S.C. §254e(a)(1).

(8) Hospital--A facility that:

(A) is:

(i) a general hospital or a special hospital, as those terms are defined by §241.003, Health and Safety Code, including a hospital maintained or operated by the state; or

(ii) a mental hospital licensed under Chapter 577, Health and Safety Code; and

(B) has an organized medical staff.

(9) Medication order--An order from a practitioner or a practitioner's designated agent for administration of a drug or device, as defined by §551.003 of the Occupations Code, or an order from a practitioner to dispense a drug to a patient in a hospital for immediate administration while the patient is in the hospital or for emergency use on the patient's release from the hospital, as defined by Texas Health and Safety Code, §481.002.

(10) Nonprescription drug--A nonnarcotic drug or device that may be sold without a prescription and that is labeled and packaged in compliance with state and federal law, as defined by §551.003(25) of the Occupations Code.

(11) Physician Assistant--A person who is licensed as a physician assistant by the Texas Physician Assistant Board.
(12) Physician group practice--An entity through which two or more physicians deliver health care to the public through the practice of medicine on a regular basis and that is:

(A) owned and operated by two or more physicians; or

(B) a freestanding clinic, center, or office of a nonprofit health organization certified by the board under §162.1(b) of this title (relating to Supervision of Medical Students) that complies with the requirements of Chapter 162 of this title.

(13) Physician's orders--The instructions of a physician for the care of an individual patient.

(14) Practice serving a medically underserved population--Refers to the following:

(A) a practice in a health professional shortage area;

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

(C) a public health clinic or a family planning clinic under contract with the Health and Human Services Commission or the Department of State Health Services;

(D) a clinic designated as a federally qualified health center under 42 U.S.C. §1396d(l)(2)(B);

(E) a county, state, or federal correctional facility;

(F) a practice:

(i) that either:

(I) is located in an area in which the Department of State Health Services determines there is an insufficient number of physicians providing services to eligible clients of federally, state, or locally funded health care programs; or

(II) is a practice that the Department of State Health Services determines serves a disproportionate number of clients eligible to participate in federally, state, or locally funded health care programs; and

(ii) for which the Department of State Health Services publishes notice of the department's determination in the Texas Register and provides an opportunity for public comment in the manner provided for a proposed rule under Chapter 2001, Government Code; or

(G) a practice at which a physician was delegating prescriptive authority to an advanced practice registered nurse or physician assistant on or before March 1, 2013, based on the practice qualifying as a site serving a medically underserved population.

(15) Prescribe or order a drug or device--Prescribing or ordering a drug or device, including the issuing of a prescription drug order or medication order.
(16) Prescription drug--Means:

(A) a substance for which federal or state law requires a prescription before the substance may be legally dispensed to the public;

(B) a drug or device that under federal law is required, before being dispensed or delivered, to be labeled with the statement:

(i) "Caution: federal law prohibits dispensing without prescription" or "Rx only" or another legend that complies with federal law; or

(ii) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian"; or

(C) a drug or device that is required by federal or state statute or regulation to be dispensed on prescription or that is restricted to use by a practitioner only.

(17) Prescriptive authority agreement--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. Prescriptive authority agreements are required for the delegation of the act of prescribing or ordering a drug or device in all practice settings, with the exception of a facility-based practice, pursuant to §157.054 of the Medical Practice Act ("the Act"), Texas Occupations Code Annotated, §§157.051 - 157.060 and this title.

(18) Protocols--Written authorization delegating authority to initiate medical aspects of patient care, including delegation of the act of prescribing or ordering a drug or device at a facility-based practice. The term protocols is separate and distinct from prescriptive authority agreements as defined under the Act and this chapter. However, prescriptive authority agreements may reference or include the terms of a protocol(s). The protocols must be agreed upon and signed by the physician, the physician assistant and/or advanced practice registered nurse, reviewed and signed at least annually, maintained on site, and must contain a list of the types or categories of dangerous drugs and controlled substances available for prescription, limitations on the number of dosage units and refills permitted, and instructions to be given the patient for follow-up monitoring or contain a list of the types or categories of dangerous drugs and controlled substances that may not be prescribed. Protocols shall be defined to promote the exercise of professional judgment by the advanced practice registered nurse and physician assistant commensurate with their education and experience. The protocols used by a reasonable and prudent physician exercising sound medical judgment need not describe the exact steps that an advanced practice registered nurse or a physician assistant must take with respect to each specific condition, disease, or symptom.

(19) Standing delegation order--Written instructions, orders, rules, regulations, or procedures prepared by a physician and designed for a patient population with specific diseases, disorders, health problems, or sets of symptoms. Such written instructions, orders, rules, regulations or procedures shall delineate under what set of conditions and circumstances action should be
instituted. These instructions, orders, rules, regulations or procedures are to provide authority for and a plan for use with patients presenting themselves prior to being examined or evaluated by a physician to assure that such acts are carried out correctly and are distinct from specific orders written for a particular patient, and shall be limited in scope of authority to be delegated as provided in §193.4 of this title (relating to Scope of Standing Delegation Orders). As used in this chapter, standing delegation orders do not refer to treatment programs ordered by a physician following examination or evaluation by a physician, nor to established procedures for providing of care by personnel under direct, personal supervision of a physician who is directly supervising or overseeing the delivery of medical or health care. As used in this chapter, standing delegation orders are separate and distinct from prescriptive authority agreements as defined in this chapter. Such standing delegation orders should be developed and approved by the physician who is responsible for the delivery of medical care covered by the orders. Such standing delegation orders, at a minimum, should:

(A) include a written description of the method used in developing and approving them and any revision thereof;

(B) be in writing, dated, and signed by the physician;

(C) specify which acts require a particular level of training or licensure and under what circumstances they are to be performed;

(D) state specific requirements which are to be followed by persons acting under same in performing particular functions;

(E) specify any experience, training, and/or education requirements for those persons who shall perform such orders;

(F) establish a method for initial and continuing evaluation of the competence of those authorized to perform same;

(G) provide for a method of maintaining a written record of those persons authorized to perform same;

(H) specify the scope of supervision required for performance of same, for example, immediate supervision of a physician;

(I) set forth any specialized circumstances under which a person performing same is to immediately communicate with the patient's physician concerning the patient's condition;

(J) state limitations on setting, if any, in which the plan is to be performed;

(K) specify patient record-keeping requirements which shall, at a minimum, provide for accurate and detailed information regarding each patient visit; personnel involved in treatment and evaluation on each visit; drugs, or medications administered, prescribed or provided; and such
other information which is routinely noted on patient charts and files by physicians in their offices; and

(L) provide for a method of periodic review, which shall be at least annually, of such plan including the effective date of initiation and the date of termination of the plan after which date the physician shall issue a new plan.

(20) Standing medical orders--Orders, rules, regulations or procedures prepared by a physician or approved by a physician or the medical staff of an institution for patients which have been examined or evaluated by a physician and which are used as a guide in preparation for and carrying out medical or surgical procedures or both. These orders, rules, regulations or procedures are authority and direction for the performance for certain prescribed acts for patients by authorized persons as distinguished from specific orders written for a particular patient or delegation pursuant to a prescriptive authority agreement.

(21) Submit--The term used to indicate that a completed item has been actually received and date-stamped by the Board along with all required documentation and fees, if any.

§193.3.Exclusion from the Provisions of this Chapter.

The provisions of this chapter shall not restrict physicians from authorizing the provision of patient care by use of pre-established programs under the following circumstances listed in paragraphs (1) - (6) of this section:

(1) where a patient is institutionalized and the care is to be delivered in a hospital, nursing home, or other institution which has an organized medical staff which has authorized or approved standing delegation orders or standing medical orders;

(2) where care is rendered in an emergency. Emergency care is that care provided to a person who is unconscious, ill, or injured, when the reasonable apparent circumstances require prompt decisions and actions in care and when the necessity of immediate care is so reasonably apparent that any delay in the rendering of care or treatment would seriously worsen the physical condition or endanger the life of the person;

(3) where care is rendered as a part of disaster relief and charges for the services are not made;

(4) where limitation from civil liability is provided under the Texas Civil Practice and Remedies Code, §74.151;

(5) where first aid care is provided at the site of an injury or as an interim measure prior to transfer of the patient to a medical facility where medical services are available;

(6) where care rendered is provided by licensed health professional acting within the scope of the licensed profession as defined by Texas Occupations Code Annotated.

§193.4.Scope of Standing Delegation Orders.
Providing the authorizing physician is satisfied as to the ability and competence of those for whom the physician is assuming responsibility, and with due regard for the safety of the patient and in keeping with sound medical practice, standing delegation orders may be authorized for the performance of acts and duties which do not require the exercise of independent medical judgment. Limitations on the physician's use of standing delegation orders which are stated in this section shall not apply to patient care delivered by physician assistants or advanced practice registered nurses, as authorized by §§157.051 - 157.060 of the Act, or §§193.6 - 193.14 of this title (relating to Delegation of Prescribing and Ordering Drugs and Devices; Prescriptive Authority Agreements Generally; Prescriptive Authority Agreements: Minimum Requirements; Delegation of Prescriptive Authority at a Facility-Based Practice Site; Registration of Delegation and Prescriptive Authority Agreements; Prescription Forms; Prescriptive Authority Agreement Inspections; Delegation to Certified Registered Nurse Anesthetists; and Delegation Related to Obstetrical Services). When care is delivered under other circumstances, standing delegation orders may include authority to undertake the following as listed in paragraphs (1) - (8) of this section:

(1) the taking of personal and medical history;

(2) the performance of appropriate physical examination and the recording of physical findings;

(3) the ordering of tests appropriate to the services provided under such orders, such as tuberculin tests, skin tests, VD tests, VDRL tests, gram stains, pap smears, and serological tests;

(4) the administration or providing of drugs ordered by direct personal or voice communication by the authorizing physician who shall assume responsibility for the patient's welfare, providing such administration or provision of drugs shall be in compliance with other state or federal laws and providing further that pre-signed prescriptions shall be utilized by the authorizing physician only under the following conditions shown in subparagraphs (A) - (D) of this paragraph.

(A) The prescription shall be prepared in full compliance with the Texas Health and Safety Code, §483.001(13) except for the inclusion of the name of the patient and the date of issuance.

(B) The prescription shall be for one of the following classes or types of drugs:

(i) oral contraceptives;

(ii) diaphragms and contraceptive creams and jellies;

(iii) topical anti-infectives for vaginal use;

(iv) oral anti-parasitic drugs for treatment of pinworms;

(v) topical anti-parasitic drugs; or

(vi) antibiotic drugs for treatment of venereal disease.
(C) The prescriptions may not be issued for any controlled substance.

(D) The providing of the drugs shall be in compliance with the Texas Pharmacy Act and rules adopted by the Texas State Board of Pharmacy.

(5) the administration of immunization vaccines providing the recipient is free of any condition for which the immunization is contraindicated;

(6) the providing of information regarding hygiene and the administration or providing of medications for health problems resulting from a lack of hygiene, including the institution of treatment for conditions such as scabies, ringworm, pinworm, head lice, diaper rash and other minor skin disorders, provided the administration or providing of drugs adheres to paragraph (4) of this section;

(7) the provision of services and the administration of therapy by public health departments as officially prescribed by the Department of State Health Services for the prevention or treatment of specific communicable diseases or health conditions for which the Department of State Health Services is responsible for control under state law;

(8) the issuance of a nonprescription drug for the symptomatic relief of minor illnesses provided that such medications are packaged and labeled in compliance with state and federal laws and regulations.


(a) A physician shall not be liable for the act or acts of a physician assistant or advanced practice registered nurse solely on the basis of having signed an order, a standing medical order, a standing delegation order, a prescriptive authority agreement, or other order or protocol, authorizing a physician assistant or advanced practice registered nurse to administer, provide, prescribe or order a drug or device, unless the physician has reason to believe the physician assistant or advanced practice registered nurse lacked the competency to perform the act or acts.

(b) Notwithstanding subsection (a) of this section, delegating physicians remain responsible to the Board and to their patients for acts performed under the physician's delegated authority.

(c) Any physician authorizing standing delegation orders or standing medical orders which authorize the exercise of independent medical judgment or treatment shall be subject to having his or her license to practice medicine in the State of Texas revoked or suspended under §§164.001, 164.052, and 164.053 of the Act.

§ 193.6. Delegation of Prescribing and Ordering Drugs and Devices.

(a) Pursuant to §157.0511 of the Act, a physician's authority to delegate the prescribing or ordering of a drug or device is limited to:

(1) nonprescription drugs;
(2) dangerous drugs; and

(3) controlled substances to the extent provided in subsections (b) and (c) of this section.

(b) A physician may delegate the prescribing or ordering of a controlled substance only if:

(1) the prescription is for a controlled substance listed in Schedule III, IV, or V as established by
the commissioner of the Department of State Health Services under Chapter 481 of the Texas
Health and Safety Code;

(2) the prescription, including a refill of the prescription, is for a period not to exceed 90 days;

(3) with regard to the refill of a prescription, the refill is authorized after consultation with the
deafunctioning physician and the consultation is noted in the patient's chart; and

(4) with regard to a prescription for a child less than two years of age, the prescription is made
after consultation with the delegating physician and the consultation is noted in the patient's
chart.

(c) A physician may delegate the prescribing or ordering of a controlled substance listed in
Schedule II as established by the commissioner of the Department of State Health Services under
Chapter 481, Health and Safety Code, only:

(1) in a hospital facility-based practice under §157.054 of the Act, in accordance with policies
approved by the hospital's medical staff or a committee of the hospital's medical staff as provided
by the hospital bylaws to ensure patient safety, and as part of the care provided to a patient who:

(A) has been admitted to the hospital for an intended length of stay of 24 hours or greater; or

(B) is receiving services in the emergency department of the hospital; or

(2) as part of the plan of care for the treatment of person who has executed a written certification
of a terminal illness, has elected to receive hospice care, and is receiving hospice treatment from
a qualified hospice provider.

§193.7. Prescriptive Authority Agreements Generally.

(a) A physician may delegate to an advanced practice registered nurse or physician assistant,
acting under adequate physician supervision, the act of prescribing or ordering a drug or device
as authorized through a prescriptive authority agreement between the physician and the advanced
practice registered nurse or physician assistant, as applicable.

(b) A physician and an advanced practice registered nurse or physician assistant are eligible to
enter into or be parties to a prescriptive authority agreement only if:
(1) if applicable, the Texas Board of Nursing has approved the advanced practice registered nurse's authority to prescribe or order a drug or device as authorized under this chapter;

(2) the advanced practice registered nurse or physician assistant:

(A) holds an active license to practice in this state as an advanced practice registered nurse or physician assistant, as applicable, and is in good standing in this state; and

(B) is not currently prohibited by the Texas Board of Nursing or the Texas Physician Assistant Board, as applicable, from executing a prescriptive authority agreement.

(c) Before executing the prescriptive authority agreement, the physician and the advanced practice registered nurse or physician assistant disclose to the other prospective party to the agreement any prior disciplinary action by the board, the Texas Board of Nursing, or the Texas Physician Assistant Board, as applicable.

(d) Except as provided by subsection (e) of this section, the combined number of advanced practice registered nurses and physician assistants with whom a physician may enter into a prescriptive authority agreement may not exceed seven advanced practice registered nurses and physician assistants or the full-time equivalent of seven advanced practice registered nurses and physician assistants.

(e) Subsection (d) of this section does not apply to a prescriptive authority agreement if the prescriptive authority is being exercised in:

(1) a practice serving a medically underserved population; or

(2) a facility-based practice in a hospital under §157.054, subject to the limitations in §157.054(b-1) of the Act and §193.9(c)(5) of this title (relating to Delegation of Prescriptive Authority at a Facility-Based Practice Site).


Prescriptive authority agreement must, at a minimum:

(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 advanced practice registered nurse or physician assistant to whom the physician has delegated prescriptive authority related to the care and treatment of patients;

(8) if alternate physician supervision is to be utilized, designate one or more alternate physicians who may:

(A) provide appropriate supervision on a temporary basis in accordance with the requirements established by the prescriptive authority agreement and the requirements of this subchapter; and

(B) participate in the prescriptive authority quality assurance and improvement plan meetings required under this section; and

(9) describe a prescriptive authority quality assurance and improvement plan and specify methods for documenting the implementation of the plan that includes the following:

(A) chart review, with the number of charts to be reviewed determined by the physician and advanced practice registered nurse or physician assistant; and

(B) periodic face-to-face meetings between the advanced practice registered nurse or physician assistant and the physician at a location determined by the physician and the advanced practice registered nurse or physician assistant.

(10) The periodic face-to-face meetings described by paragraph (9)(B) of this section must:

(A) include:

(i) the sharing of information relating to patient treatment and care, needed changes in patient care plans, and issues relating to referrals; and

(ii) discussion of patient care improvement; and

(B) be documented and occur, except as provided by subparagraph (C) of this paragraph:

(i) at least monthly until the third anniversary of the date the agreement is executed; and

(ii) at least quarterly after the third anniversary of the date the agreement is executed, with monthly meetings held between the quarterly meetings by means of a remote electronic communications system, including videoconferencing technology or the Internet; or

(C) if during the seven years preceding the date the agreement is executed, the advanced practice registered nurse or physician assistant was supervised for at least five years in a practice that included the exercise of prescriptive authority with required physician supervision by the physician with whom the prescriptive authority agreement is entered:
(i) at least monthly until the first anniversary of the date the agreement is executed; and

(ii) at least quarterly after the first anniversary of the date the agreement is executed, with monthly meetings held between the quarterly meetings by means of a remote electronic communications system, including videoconferencing technology or the Internet.

(11) The prescriptive authority agreement may include other provisions agreed to by the physician and advanced practice registered nurse or physician assistant.

(12) If the parties to the prescriptive authority agreement practice in a physician group practice, the physician may appoint one or more alternate supervising physicians designated under paragraph (8) of this section, if any, to conduct and document the quality assurance meetings in accordance with the requirements of this chapter.

(13) The prescriptive authority agreement need not describe the exact steps that an advanced practice registered nurse or physician assistant must take with respect to each specific condition, disease, or symptom.

(14) A physician, advanced practice registered nurse, or physician assistant who is a party to a prescriptive authority agreement must retain a copy of the agreement until the second anniversary of the date the agreement is terminated.

(15) A party to a prescriptive authority agreement may not by contract waive, void, or nullify any provision of this section or §157.0513 of the Occupations Code.

(16) In the event that a party to a prescriptive authority agreement is notified that the individual has become the subject of an investigation by the board, the Texas Board of Nursing, or the Texas Physician Assistant Board, the individual shall immediately notify the other party to the prescriptive authority agreement.

(17) The prescriptive authority agreement and any amendments must be reviewed at least annually, dated, and signed by the parties to the agreement. The prescriptive authority agreement and any amendments must be made available to the board, the Texas Board of Nursing, or the Texas Physician Assistant Board not later than the third business day after the date of receipt of request, if any.

(18) The prescriptive authority agreement should promote the exercise of professional judgment by the advanced practice registered nurse or physician assistant commensurate with the advanced practice registered nurse’s or physician assistant’s education and experience and the relationship between the advanced practice registered nurse or physician assistant and the physician.

(19) This section shall be liberally construed to allow the use of prescriptive authority agreements to safely and effectively utilize the skills and services of advanced practice registered nurses and physician assistants.

§193.9. Delegation of Prescriptive Authority at a Facility-Based Practice Site.
(a) Acts that may be delegated. One or more physicians licensed by the board shall be authorized to delegate, to one or more physician assistants or advanced practice registered nurses acting under adequate physician supervision whose practice is facility-based at a hospital or licensed long-term care facility, prescribing or ordering of a drug or device if each of the physicians is: the medical director or chief of medical staff of the facility in which the physician assistant or advanced practice registered 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 registered nurse practices, or a physician who consents to the request of the medical director or chief of medical staff to delegate the prescribing or ordering of a drug or device at the facility in which the physician assistant or advanced practice registered nurse practices.

(b) The limitations on the number of advanced practice registered nurses or physician assistants to whom a physician may delegate under §193.7(d) of this title (relating to Prescriptive Authority Agreements Generally) do not apply to a physician whose practice is facility-based under this chapter, subject to the limitations in subsection (c)(4) of this section.

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

1. 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;

2. 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, a department chair, or a physician who consents to delegate under §157.054(a)(4) of the Act;

3. the delegation does not permit the prescribing or ordering of a drug or device 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 the medical director is limited to delegating the prescribing or ordering of a drug or device to no more than seven advanced practice registered nurses or physician assistants or their full-time equivalents; and

5. under this section, a facility-based physician may not delegate at more than one hospital or more than two long-term care facilities pursuant to §157.054 of the Act; however, facility-based physicians are not prohibited from delegating the prescribing or ordering of drugs or devices under §157.0512 of the Act or §193.7 and §193.8 of this title (relating to Prescriptive Authority Agreements Generally and Prescriptive Authority Agreements: Minimum Requirements), at other practice locations, including hospital or long-term care facilities, provided that the delegation at those locations complies with all requirements under §157.0512 of the Act.

6. Physician supervision. Physician supervision of the prescribing or ordering of a drug or device 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
registered nurse or physician assistant. A physician shall provide continuous supervision, but the constant physical presence of the physician is not required.

§193.10.Registration of Delegation and Prescriptive Authority Agreements.

(a) The Board shall maintain and exchange information with the Texas Board of Nursing, and the Texas Physician Assistant Board, regarding the names, locations and license numbers, of each physician, advanced practice registered nurse, and physician assistant who has entered into a prescriptive authority agreement.

(1) The Board shall immediately notify the Texas Physician Assistant Board and the Texas Board of Nursing when a license holder of the Board who has registered a prescriptive authority agreement(s) becomes the subject of an investigation involving the delegation and supervision of prescriptive authority, as well as the final disposition of any such investigation. Such notifications shall be made subject to, and without waiving any confidentiality provisions related to board investigations provided for under the Act and this title.

(2) The Board shall maintain and share with the other boards a list of board license holders who have been subject to disciplinary action involving the delegation and supervision of prescriptive authority.

(b) Physicians who enter into prescriptive authority agreements with physician assistants or advanced practice registered nurses must register with the Board, within 30 days of signing the prescriptive authority agreement the following information:

(1) the name and license number of the physician assistant or advanced practice registered nurse to whom the delegation has been made;

(2) the date on which the prescriptive authority agreement was executed;

(3) the address(es) at which the advanced nurse practice registered nurse or physician assistant will be prescribing under the prescriptive authority agreement; and

(4) whether the prescriptive authority being exercised under the prescriptive authority agreement is being exercised in a practice servicing a medically underserved population.

(c) The board shall maintain and make available to the public, a searchable online lists of physicians, advanced practice registered nurses, and physician assistants who have entered into prescriptive authority agreements, and identify the physician, advanced practice registered nurse, or physician assistant, with whom each physicians, advanced practice registered nurse, or physician assistant has entered into a prescriptive authority agreement.

(d) A physician who delegates to a certified registered nurse anesthetist the ordering of drugs and devices necessary for the certified registered anesthetist to administer an anesthetic or an anesthesia-related service is not required to register the name and license number of the certified registered nurse anesthetist with the board.
(e) A physician terminating a prescriptive authority agreement shall notify the board in writing within 30 days of such termination.

§193.11. Prescription Forms.

Prescription forms shall comply with applicable rules adopted by the Texas State Board of Pharmacy. A delegating physician is responsible for devising and enforcing a system to account for and monitor the issuance of prescriptions under the physician's supervision.

§193.12. Prescriptive Authority Agreement Inspections.

If the board receives a notice under §157.0513(a)(2) of the Act, the board or an authorized board representative may enter, with reasonable notice and at a reasonable time, unless the notice would jeopardize an investigation, a site where a party to a prescriptive authority agreement practices to inspect and audit any records or activities relating to the implementation and operation of the agreement. To the extent reasonably possible, the board and the board's authorized representative shall conduct any inspection or audit under this section in a manner that minimizes disruption to the delivery of patient care. The board may use information obtained during the inspection for any purpose allowed under the law, including licensure and enforcement.


(a) In a licensed hospital or ambulatory surgical center a physician may delegate to a certified registered nurse anesthetist the ordering of drugs and devices necessary for a certified registered nurse anesthetist to administer an anesthetic or an anesthesia-related service ordered by the physician. The physician's order for anesthesia or anesthesia-related services does not have to be drug-specific, dose-specific, or administration-technique-specific. Pursuant to the order and in accordance with facility policies or medical staff bylaws, the nurse anesthetist may select, obtain, and administer those drugs and apply the appropriate medical devices necessary to accomplish the order and maintain the patient within a sound physiological status.

(b) This section shall be liberally construed to permit the full use of safe and effective medication orders to utilize the skills and services of certified registered nurse anesthetists.


(a) A physician may delegate to a physician assistant offering obstetrical services and certified by the board as specializing in obstetrics or an advanced practice registered nurse recognized by the Texas Board of Nursing as a nurse midwife the act or acts of administering or providing controlled substances to the nurse midwife's or physician assistant's clients during intra-partum and immediate post-partum care. The physician shall not delegate the use of a prescription sticker or the use or issuance of an official prescription form relating to the prescription of Schedule II controlled substance as described under §481.075 of the Health and Safety Code.
(b) The delegation of authority to administer or provide controlled substances under this section must be under a physician's order, medical order, standing delegation order, prescriptive authority agreement, or protocol which shall require adequate and documented availability for access to medical care.

(c) The physician's orders, medical orders, standing delegation orders, prescriptive authority agreements, or protocols shall provide for reporting or monitoring of 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.

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

(1) seven 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.

(e) The administering or providing of controlled substances under this section shall comply with other applicable laws.

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

(g) The controlled substance shall be supplied in a suitable container that has been labeled in compliance with the applicable drug laws and shall include the patient's name and address; the drug to be provided; the name, address, and telephone number of the physician; the name, address, and telephone number of the nurse midwife or physician assistant; and the date.

§193.15.Delegated Drug Therapy Management.

(a) Purpose. This section is promulgated to promote the efficient administration and regulation of the delegation by physicians to pharmacists of drug therapy management pursuant to §157.001 of the Act (related to Delegation of Certain Functions).

(b) Delegation. A physician licensed to practice medicine in Texas may delegate to a properly qualified and trained pharmacist acting under adequate supervision the performance of specific acts of drug therapy management authorized by the physician through the physician's order, standing medical order, standing delegation order, or other order or protocol as provided for in this section.

(c) Drug therapy management. Drug therapy management is the performance of specific acts by pharmacists as authorized by a physician through written protocol. Drug therapy management does not include the selection of drug products not prescribed by the physician unless the drug product is named in the physician initiated protocol or the physician initiated record of deviation from a standing protocol. Drug therapy management may include the following listed in paragraphs (1) - (6) of this subsection:
(1) collecting and reviewing patient drug use histories;

(2) ordering or performing routine drug therapy related patient assessment procedures including temperature, pulse, and respiration;

(3) ordering drug therapy related laboratory tests;

(4) implementing or modifying drug therapy, including the authority to sign a prescription drug order for dangerous drugs as provided in §157.101(b-1) of the Act, following diagnosis, initial patient assessment, and ordering of drug therapy by a physician, as detailed in the protocol, provided that the pharmacist:

(A) practices in a hospital, hospital-based clinic or an academic health care institution that has bylaws and a medical staff policy that permit a physician to delegate to a pharmacist the management of a patient's drug therapy;

(B) provides the name, address, and telephone number of the pharmacist and of the delegating physician on each prescription signed by the pharmacist; and

(C) the pharmacist provides a copy of the protocol to the Texas State Board of Pharmacy;

(5) generically equivalent drug selection if the physician's signature does not clearly indicate that the prescription must be dispensed as written; or

(6) any other drug therapy related act delegated by a physician.

(d) Supervision. Physician supervision shall be considered adequate for purposes of this section if the delegating physician is in compliance with this section and the physician:

(1) is responsible for the formulation or approval of the written protocol and any patient-specific deviation from the protocol and review of the written protocol and any patient-specific deviations from the protocol at least annually and the services provided to a patient under the protocol on a schedule defined in the written protocol;

(2) has established and maintains a physician-patient relationship with each patient provided drug therapy management by a delegated pharmacist and informed the patient that drug therapy will be managed by a pharmacist under written protocol;

(3) is geographically located so as to be able to be physically present daily to provide medical care and supervision;

(4) receives, on a schedule defined in the written protocol, a periodic status report on the patient, including any problem or complication encountered;

(5) is available through direct telecommunication for consultation, assistance, and direction.
(e) Written protocol. Written protocols for purposes of this section shall mean a physician's order, standing medical order, standing delegation order, or other written order.

(1) A written protocol must contain at a minimum the following listed in subparagraphs (A) - (E) of this paragraph:

(A) a statement identifying the individual physician authorized to prescribe drugs and responsible for the delegation of drug therapy management;

(B) a statement identifying the individual pharmacist authorized to dispense drugs and to engage in drug therapy management as delegated by the physician;

(C) a statement identifying the types of drug therapy management decisions that the pharmacist is authorized to make which shall include:

(i) a statement of the ailments or diseases, drugs, and type of drug therapy management authorized; and

(ii) a specific statement of the procedures, decision criteria, or plan the pharmacist shall follow when exercising drug therapy management authority;

(D) a statement of the activities the pharmacist shall follow in the course of exercising drug therapy management authority, including the method for documenting decisions made and a plan for communication or feedback to the authorizing physician concerning specific decisions made. Documentation shall be recorded within a reasonable time of each intervention and may be performed on the patient medication record, patient medical chart, or in a separate log book; and

(E) a statement that describes appropriate mechanisms and time schedule for the pharmacist to report to the physician monitoring the pharmacist's exercise of delegated drug therapy management and the results of the drug therapy management.

(2) A standard protocol may be used, or the attending physician may develop a drug therapy management protocol for the individual patient. If a standard protocol is used, the physician shall record what deviations, if any, from the standard protocol are ordered for that patient.

(f) Review and revision of protocols.

(1) At least annually, written protocols shall be reviewed by the physician and, if necessary, revised.

(2) Documentation of all services provided to the patient by the pharmacist shall be reviewed by the physician on the schedule established in the protocol.

(g) Construction and interpretation. This section shall not be construed or interpreted to restrict the use of a pre-established health care program or restrict a physician from authorizing the provision of patient care by use of a pre-established health care program if the patient is
in institutionalized and the care is to be delivered in a licensed hospital with an organized medical staff that has authorized standing delegation orders, standing medical orders, or protocols. This section may not be construed to limit, expand, or change any provision of law concerning or relating to therapeutic drug substitution or administration of medication, including the Texas Pharmacy Act, Texas Occupations Code Chapter 551.

§193.16.Delegated Administration of Immunizations or Vaccinations by a Pharmacist under Written Protocol.

(a) Purpose. This section is promulgated to promote the efficient administration and regulation of the delegation by physicians to pharmacists of the administration of immunizations or vaccinations under written protocol pursuant to the §157.001 of the Act (related to Delegation of Certain Functions).

(b) Delegation. A physician licensed to practice medicine in Texas may delegate to a properly qualified and trained pharmacist acting under adequate supervision the administration of immunizations and vaccinations authorized by the physician through the physician's order, standing medical order, standing delegation order, or other order or protocol as provided for in this section.

(c) Delegated Administration of Immunizations and Vaccinations under Written Protocol. Administration of Immunizations and Vaccinations does not include the selection of drug products not prescribed by the physician unless the drug product is named in the physician initiated protocol.

(d) Supervision. Physician supervision shall be considered adequate for purposes of this section if the delegating physician is in compliance with this section and the physician:

(1) is responsible for the formulation or approval of the physician's order, standing medical order, standing delegation order, or other order or written protocol and periodically reviews the order or protocol and the services provided to the patient under the order or protocol on a schedule defined in the written protocol;

(2) has established a physician-patient relationship with each patient under 14 years of age and referred the patient to the pharmacist;

(3) is geographically located so as to be easily accessible to the pharmacist administering the immunization or vaccination;

(4) receives, on a schedule defined in the written protocol, a periodic status report on the patient, including any problem or complication encountered; and

(5) is available through direct telecommunication for consultation, assistance, and direction.

(e) Written protocol. Written protocols for purposes of this section shall mean a physician's order, standing medical order, standing delegation order, or other written order.
(1) A written protocol must contain at a minimum the following listed in subparagraphs (A) - (F) of this paragraph:

(A) a statement identifying the individual physician authorized to prescribe drugs and responsible for the delegation of administration of immunizations or vaccinations;

(B) a statement identifying the individual pharmacist authorized to administer immunizations or vaccinations as delegated by the physician;

(C) a statement identifying the location(s) at which the pharmacist may administer immunizations or vaccinations which may not include where the patient resides, except for a licensed nursing home or hospital;

(D) a statement identifying the immunizations or vaccinations that may be administered by the pharmacist;

(E) a statement identifying the activities the pharmacist shall follow in the course of administering immunizations or vaccinations including procedures to follow in the case of reactions following administration; and

(F) a statement that describes the content of, and the appropriate mechanisms for the pharmacist to report the administration of immunizations or vaccinations to the physician issuing the written protocol within 24 hours of administering the immunization or vaccination.

(2) A standard protocol may be used, or the physician may develop an immunization or vaccination protocol for the individual patient. If a standard protocol is used, the physician shall record what deviations, if any, from the standard protocol are ordered for that patient.

(f) Review and revision of protocols.

(1) At least annually, written protocols shall be reviewed by the physician and, if necessary, revised.

(2) Documentation of the administration of immunizations or vaccinations to the patient by a pharmacist shall be reviewed by the physician on the schedule established in the protocol.

(g) Construction and interpretation. This section shall not be construed or interpreted to restrict the use of a pre-established health care program or restrict a physician from authorizing the provision of patient care by use of a pre-established health care program if the patient is institutionalized and the care is to be delivered in a licensed hospital with an organized medical staff that has authorized standing delegation orders, standing medical orders, or protocols. This section may not be construed to limit, expand, or change any provision of law concerning or relating to therapeutic drug substitution or administration of medication, including the Texas Pharmacy Act, Texas Occupations Code §§554.001 - 554.004.

§193.17.Nonsurgical Medical Cosmetic Procedures.
(a) Purpose. The purpose of this section is to establish the duties and responsibilities of a physician who performs or who delegates the performance of a nonsurgical medical cosmetic procedure (hereafter referred to as "Procedure"). These procedures can result in complications and the performance of these procedures is the practice of medicine. This rule shall not be interpreted to allow individuals to perform procedures without either a physician or midlevel practitioner being onsite, or a physician being available for emergency consultation or appointment in the event of an adverse outcome.

(b) Definitions.

(1) Midlevel practitioner--A physician assistant or advanced practice registered nurse.

(2) Prescription medical device--A device that the federal Food and Drug Administration has designated as a prescription medical device, and can be sold only to persons with prescriptive authority in the state in which they reside.

(3) Procedure--A nonsurgical medical cosmetic procedure, including but not limited to the injection of medication or substances for cosmetic purposes, the administration of colonic irrigations, and the use of a prescription medical device for cosmetic purposes.

(c) Applicability. This section does not apply to:

(1) surgery as defined under Texas Occupations Code, §151.002(a)(14);

(2) the practice of a profession by a licensed health care professional under methods or means within the scope of practice permitted by such license;

(3) the use of nonprescription devices;

(4) intravenous therapy;

(5) procedures performed at a physician's practice by the physician or midlevel practitioners acting under the physicians supervision; or

(6) laser hair removal procedures performed in accordance with Texas Health and Safety Code, Chapter 401, Subchapter M.

(d) Physician Responsibilities.

(1) A physician must be appropriately trained, including hands-on training, in a Procedure prior to performing the Procedure or delegating the performance of a Procedure. The physician must keep a record of his or her training in the office and have it available for review upon request by a patient or a representative of the board.

(2) Prior to authorizing a Procedure, a physician, or a midlevel practitioner acting under the delegation of a physician, must:
(A) take a history;

(B) perform an appropriate physical examination;

(C) make an appropriate diagnosis;

(D) recommend appropriate treatment;

(E) develop a detailed and written treatment plan;

(F) obtain the patient's informed consent;

(G) provide instructions for emergency and follow-up care;

(H) prepare and maintain an appropriate medical record;

(I) have signed and dated written protocols as described in paragraph (7) of this subsection that are detailed to a level of specificity that the person performing the Procedure may readily follow; and

(J) have signed and dated written standing orders.

(K) The performance of the items listed in subparagraphs (A) - (J) of this paragraph must be documented in the patient's medical record.

(3) After a patient has been evaluated and diagnosed, as described in paragraph (2) of this subsection, qualified unlicensed personnel may perform a procedure only if:

(A) a physician or midlevel practitioner is onsite during the procedure; or

(B) a delegating physician is available for emergency consultation in the event of an adverse outcome, and if the physician considers it necessary, be able to conduct an emergency appointment with the patient.

(4) Regardless of who performs the Procedure, the physician is ultimately responsible for the safety of the patient and all aspects of the Procedure.

(5) Regardless of who performs the Procedure, the physician is responsible for ensuring that each Procedure is documented in the patient's medical record. A Procedure performed by unlicensed personnel must be timely co-signed by a supervising physician.

(6) The physician must ensure that the facility at which Procedures are performed, there is a quality assurance program pertaining to Procedures that includes the following:

(A) a mechanism to identify complications and adverse effects of treatment and to determine their cause:
(B) a mechanism to review the adherence to written protocols by all health care personnel;

(C) a mechanism to monitor the quality of treatments;

(D) a mechanism by which the findings of the quality assurance program are reviewed and incorporated into future protocols; and

(E) ongoing training to maintain and improve the quality of treatment and performance of Procedures by health care personnel.

(7) A physician may delegate Procedures only at a facility at which the physician has either:

(A) approved in writing the facility's written protocols pertaining to the Procedures; or

(B) developed his own protocols for the Procedures as described in paragraph (2)(I) of this subsection.

(8) The physician must ensure that a person performing a Procedure has appropriate training in, at a minimum:

(A) techniques for each Procedure;

(B) cosmetic or cutaneous medicine;

(C) indications and contraindications for each Procedure;

(D) pre-procedural and post-procedural care;

(E) recognition and acute management of potential complications that may result from the Procedure; and

(F) infectious disease control involved with each treatment.

(9) The physician has a written office protocol for the person performing the Procedure to follow in performing Procedure delegated. A written office protocol must include, at a minimum, the following:

(A) the identity of the physician responsible for the delegation of the Procedure;

(B) selection criteria to screen patients by the physician or midlevel practitioner for the appropriateness of treatment;

(C) a description of appropriate care and follow-up for common complications, serious injury, or emergencies;
(D) a statement of the activities, decision criteria, and plan the physician, or midlevel practitioner, shall follow when performing or delegating the performance of a Procedure, including the method for documenting decisions made and a plan for communication or feedback to the authorizing physician or midlevel practitioner concerning specific decisions made; and

(E) a description of what information must be documented by the person performing the Procedure.

(10) The physician ensures that each person performs each Procedure in accordance with the written office protocol.

(11) Each patient signs a consent form prior to treatment that lists potential side effects and complications, and the identity and titles of the individual who will perform the Procedure.

(12) Each person performing a Procedure must be readily identified by a name tag or similar means that clearly delineates the identity and credentials of the person.

(13) Any time a Procedure is performed, at least one person trained in basic life support must be onsite.

§193.18. Pronouncement of Death.

(a) Purpose. These rules are promulgated under the authority of the Medical Practice Act, §157.001, to allow physicians to receive information from Texas licensed vocational nurses through electronic communication for the purpose of making a pronouncement of death. Electronic communication includes, but is not limited to telephone, facsimile transmission, or electronic mail.

(b) Do not resuscitate order. A do not resuscitate (DNR) order must be kept in the patient's file.

(c) Required information. In order to make a pronouncement of death through electronic communication, a physician must receive, at a minimum, the following information regarding the condition of the patient:

(1) absence of palpable pulse for a minimum of 60 seconds;

(2) absence of discernible blood pressure for a minimum of 60 seconds;

(3) absence of evidence of respiration for a minimum of 60 seconds;

(4) absence of evidence of heartbeat for a minimum of 60 seconds; and

(5) other information as the physician may require.
(d) Follow-up by physician. If a physician makes a pronouncement of death based on information received pursuant to subsection (c) of this section, the physician retains responsibility for all acts related to this pronouncement.


(a) Purpose. The purpose of this section is to implement the mandate of the 76th Legislature as it relates to the Optometry Act, Texas Occupations Code Chapter 351, regarding the minimum standards for the collaborative management of glaucoma.

(b) Minimum requirements. At a minimum, the treating ophthalmologist should follow the guidelines outlined in paragraphs (1) - (10) of this subsection.

(1) The ophthalmologist will confirm the diagnosis within 30 days of the diagnosis of glaucoma made by the optometrist. While the ophthalmologist may, in his or her discretion, require that the patient visit the ophthalmologist for a face-to-face visit, such a face-to-face visit is not mandated. The ophthalmologist may, at the ophthalmologist's discretion, rely upon the results of diagnostic tests performed originally by the optometrist, unless reaffirmation is needed.

(2) The ophthalmologist must communicate in written form the confirmation of the diagnosis within 30 days, as well as the refinement of the treatment plan as recommended by the optometrist.

(3) A proper medical record must be generated for each patient by the ophthalmologist and shall include all correspondence and testing results. The medical record must also include a written note made in the record by the ophthalmologist or a copy of the written informed consent demonstrating that the patient understands that he or she is participating in a co-management of primary open angle glaucoma.

(4) The necessity for follow-up visits will be at the discretion of the ophthalmologist based on the communication of the patient's progress by the optometrist.

(5) The ophthalmologist must report any irregular behavior of the optometrist to the Texas Medical Board for referral to the Texas Optometry Board.

(6) The ophthalmologist must enter into the patient's written medical records that the ophthalmologist has elected to enter into a co-management agreement with an optometrist.

(7) It is at the discretion of the ophthalmologist to complete a clinical skills assessment with each optometrist in which a co-management arrangement exists. The ophthalmologist will, however, receive written confirmation and documentation that the co-managing optometrist has completed all of the requirements of the Optometric Health Care Advisory Committee to obtain the designation of "optometric glaucoma specialist."

(8) A physician may charge a reasonable consultation fee for a consultation given when a patient is referred with a diagnosis of primary open angle glaucoma.
(9) When a physician examines a patient involved in a co-management consultation with a therapeutic optometrist for treatment of primary open angle glaucoma, the physician shall forward to the therapeutic optometrist, not later than the 30th day following the examination, a written report on the results of the examination. A physician who, for a medically appropriate reason, does not return a patient to the therapeutic optometrist, shall state in the physician's report to the therapeutic optometrist the specific medical reason for failing to return the patient.

(10) In order to enter into a co-management agreement with an optometrist, there must be an agreement between the two professionals that, following each visit, specified information, previously agreed upon by both the ophthalmologist and the optometrist, about the patient examined will be forwarded to the other practitioner.

§193.20. Immunization of Persons Over 65 by Physicians' Offices.

(a) A physician responsible for the management of a physician's office that provides ongoing primary or principal medical care to persons over 65 years of age ("elderly persons") shall offer, to the extent possible as determined by the physician, the opportunity to receive the pneumococcal and influenza vaccines to each elderly person who receives ongoing care at the office. If the physician decides that it is not feasible to offer the vaccine, the physician must provide the person with information on other options for obtaining the vaccine.

(b) The physician's office must offer:

(1) the influenza vaccine in October and November, and if the vaccine is available, December; and

(2) the pneumococcal vaccine year-round.

(c) The physician must adopt a protocol providing that any person administering a vaccine in the physician's office must:

(1) ask whether the elderly person is currently vaccinated against the influenza virus or pneumococcal disease, as appropriate;

(2) administer the vaccine under the protocol after an assessment has been made for contraindications; and

(3) permanently document the vaccination in the elderly person's medical records.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 30, 2013.

TRD-201303693
Mari Robinson, J.D.

Executive Director

Texas Medical Board

Earliest possible date of adoption: October 13, 2013

For further information, please call: (512) 305-7016