BILL ANALYSIS

C.S.S.B. 406
By: Nelson
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties observe that there is a need to improve the process by which physicians may delegate and supervise the prescribing and ordering of drugs or devices to advanced practice registered nurses and physician assistants. C.S.S.B. 406, in an effort to enable this and other improvements, amends current law relating to the practice of advanced practice registered nurses and physician assistants and the delegation of prescriptive authority by physicians to and the supervision by physicians of certain advanced practice registered nurses and physician assistants.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Medical Board in SECTIONS 3, 4, and 29 of this bill, to the Texas Board of Nursing in SECTIONS 17 and 29 of this bill, to the executive commissioner of the Health and Human Services Commission in SECTION 22 of this bill, and to the Texas Physician Assistant Board in SECTION 29 of this bill.

ANALYSIS

C.S.S.B. 406 amends the Occupations Code to authorize a physician to 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. The bill specifies that 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 under the following conditions: 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; the advanced practice registered nurse or physician assistant holds an active license to practice in Texas, is in good standing in this state, and is not currently prohibited by the Texas Board of Nursing or the Texas Physician Assistant Board, as applicable, from executing a prescriptive authority agreement; and, 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 Texas Medical Board, the Texas Board of Nursing, or the Texas Physician Assistant Board, as applicable.

C.S.S.B. 406 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, or the full-time equivalent of seven, advanced practice registered nurses and physician assistants. The bill exempts from this limit a prescriptive authority agreement being exercised in a practice serving a medically underserved population and also exempts from such limit a physician whose practice is facility-based at a hospital or licensed long-term care facility, provided that the physician is not delegating in a freestanding clinic, center, or practice of the facility. The bill defines "hospital," for purposes of provisions relating to delegation to advanced practice registered nurses and physician assistants, as a facility that has an organized medical staff and

that is a mental hospital licensed under the Health and Safety Code or a general hospital or a special hospital, as those terms are defined by the Health and Safety Code, including a hospital maintained or operated by this state.

C.S.S.B. 406 requires a prescriptive authority agreement to meet the following minimum requirements:

- be in writing and signed and dated by the parties to the agreement;
- state the name, address, and all professional license numbers of the parties to the agreement;
- state the nature of the practice, practice locations, or practice settings;
- 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;
- provide a general plan for addressing consultation and referral;
- provide a plan for addressing patient emergencies;
- 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;
- if alternate supervision is to be utilized, designate one or more alternate physicians who may provide appropriate supervision on a temporary basis in accordance with the requirements established by the prescriptive authority agreement and the requirements of provisions relating to delegation to advanced practice registered nurses and physician assistants and who may participate in the prescriptive authority quality assurance and improvement plan meetings required by the bill's provisions relating to prescriptive authority agreements; and
- describe a prescriptive authority quality assurance and improvement plan and specify methods for documenting the implementation of the plan that includes chart review, with the number of charts to be reviewed determined by the physician and advanced practice registered nurse or physician assistant, and 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.

The bill requires the periodic face-to-face meetings to include the sharing of information relating to patient treatment and care, needed changes in patient care plans, issues relating to referrals, and a discussion of patient care improvement. The bill requires the meetings to be documented and establishes the required frequency of the meetings. The bill authorizes the agreement to include other provisions agreed to by the physician and advanced practice registered nurse or physician assistant. The bill authorizes the physician that is party to a prescriptive authority agreement in which the parties practice in a physician group practice to appoint one or more alternate supervising physicians to conduct and document the quality assurance meetings required by provisions relating to delegation to advanced practice registered nurses and physician assistants.

C.S.S.B. 406 establishes that the prescriptive authority agreement is not required to describe the exact steps that an advanced practice registered nurse or physician assistant must take with respect to each specific condition, disease, or symptom. The bill requires a party to a prescriptive authority agreement to retain a copy of the agreement until the second anniversary of the date the agreement is terminated and prohibits a party to a prescriptive authority agreement from by contract waiving, voiding, or nullifying the bill's provisions relating to such agreements. The bill requires a party to an agreement who is notified that the individual has become the subject of an investigation by the Texas Medical Board, the Texas Board of Nursing, or the Texas Physician

Assistant Board to immediately notify the other party to the agreement. The bill requires the prescriptive authority agreement and any amendments to be reviewed at least annually, dated, and signed by the parties to the agreement. The bill requires the agreement and any amendments to be made available to the Texas Medical 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.

C.S.S.B. 406 provides that 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. The bill requires its provisions relating to prescriptive authority agreements to 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 and prohibits the Texas Medical Board from adopting rules pertaining to the elements of a prescriptive authority agreement that would impose requirements in addition to the requirements of those provisions. The bill authorizes the Texas Medical Board to adopt other rules relating to physician delegation under statutory provisions relating to the authority of a physician to delegate certain medical acts. The bill adds a temporary provision, set to expire January 1, 2015, to require the Texas Medical Board, the Texas Board of Nursing, and the Texas Physician Assistant Board to jointly develop responses to frequently asked questions relating to prescriptive authority agreements not later than January 1, 2014.

C.S.S.B. 406 requires the Texas Medical Board, the Texas Board of Nursing, and the Texas Physician Assistant Board, to jointly develop a process as follows:

- to exchange information 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;
- by which each board shall immediately notify the other boards when a license holder of the board becomes the subject of an investigation involving the delegation and supervision of prescriptive authority, and the final disposition of any such investigation; and
- by which each board is required to maintain and share a list of the board's license holders who have been subject to a final adverse disciplinary action for an act involving the delegation and supervision of prescriptive authority.

The bill authorizes a board that receives notice of an investigation from another board involving the delegation and supervision of prescriptive authority to open an investigation against a license holder of the board who is a party to a prescriptive authority agreement with the license holder who is under investigation by the board that provided the notice. The bill authorizes the Texas Medical Board or an authorized board representative, if so notified, to 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. The bill requires the Texas Medical Board and the board's authorized representative, to the extent reasonably possible, to conduct any such inspection or audit in a manner that minimizes disruption to the delivery of patient care.

C.S.S.B. 406 requires the Texas Medical Board to maintain and make available to the public a searchable online list of physicians, advanced practice registered nurses, and physician assistants who have entered into a prescriptive authority agreement and to identify the physician, advanced practice registered nurse, or physician assistant with whom each physician, advanced practice registered nurse, and physician assistant has entered into an agreement. The bill requires the Texas Medical Board to collaborate with the Texas Board of Nursing and the Texas Physician Assistant Board to maintain and make available to the public of a list of physicians, advanced

practice registered nurses, and physician assistants who are prohibited from entering into or practicing under a prescriptive authority agreement.

C.S.S.B. 406 removes provisions authorizing a physician to delegate the carrying out or signing of a prescription drug order to an advanced practice nurse or physician assistant under certain circumstances and instead authorizes a physician to delegate the prescribing and ordering of a drug or device to an advanced practice registered nurse or a physician assistant under certain circumstances. The bill specifies that a physician's authority to delegate the prescribing or ordering of a drug or device applies to nonprescription drugs, in addition to dangerous drugs and certain controlled substances. The bill authorizes a physician to delegate the prescribing or ordering of a Schedule II controlled substance only as follows: in a hospital facility-based practice, 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 has been admitted to the hospital for an intended length of stay of 24 hours or greater or is receiving services in the emergency department of the hospital; or as part of the plan of care for the treatment of a patient 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.

C.S.S.B. 406 revises statutory provisions relating to a physician's authority to delegate the administration or provision of a drug and the prescribing and ordering of drugs at certain facility-based practice sites to specify that one or more physicians may delegate such duties if each of the delegating physicians satisfies certain specified conditions. The bill increases from four to seven the maximum number of advanced practice registered nurses, physician assistants, or their full-time equivalents to whom the medical director of a long-term care facility may delegate the prescribing or ordering of a drug or device. The bill adds to the prohibition against a facility-based physician delegating at more than one hospital or more than two long-term care facilities the specification that a facility-based physician may not be prohibited from delegating the prescribing or ordering of drugs or devices at other practice locations, including hospitals or long-term care facilities, provided that the delegation at those locations complies with the bill's requirements regarding prescriptive authority agreements.

C.S.S.B. 406 repeals statutory provisions relating to a physician's authority to delegate the act of administering, providing, or carrying out or signing a prescription drug order under certain circumstances at sites serving certain medically underserved populations, physician primary practice sites, and at certain alternate sites. The bill repeals a provision relating to the Texas Medical Board's authority to waive certain site or supervision requirements for a physician to delegate the carrying out or signing of prescription drug orders.

C.S.S.B. 406 requires the delegation of authority to administer or provide controlled substances to a client during intrapartum or postpartum care by a qualified physician assistant or advanced practice registered nurse recognized by the Texas Board of Nursing as a nurse midwife to be made under a prescriptive authority agreement, as an alternative to other specified orders and protocols, and requires such a prescriptive authority agreement to require the reporting of or monitoring of each client's progress. The bill increases from four to seven the maximum number of nurse midwives or physician assistants or their full-time equivalents to whom a physician is authorized to delegate the administering or providing of controlled substances under such circumstances.

C.S.S.B. 406 specifies that a physician is not liable for an act of a physician assistant or advanced practice registered nurse solely because the physician entered into a prescriptive authority agreement authorizing the physician assistant or advanced practice registered nurse to administer, provide, prescribe, or order a drug or device, unless the physician has a reason to believe the physician assistant or advanced practice registered nurse lacked the competency to perform the act.

C.S.S.B. 406 requires the Texas Physician Assistant Board, in conjunction with the Texas Medical Board and the Texas Board of Nursing, to perform the functions and duties relating to prescriptive authority agreements assigned to the physician assistant board under the bill's provisions.

C.S.S.B. 406 expands the scope of practice of a physician assistant to include requesting, receiving, and signing for the receipt of pharmaceutical sample prescription medications and distributing those samples to patients in certain specific practice settings as provided by a prescriptive authority agreement. The bill expands the list of activities that constitute "professional nursing" to include the performance of an act delegated by a physician under a prescriptive authority agreement.

C.S.S.B. 406 specifies that the number of physician assistants a physician may supervise in a practice setting may not be less than the number of physician assistants to whom a physician may delegate the authority to prescribe or order a drug or device in that practice setting.

C.S.S.B. 406 changes references to an advanced practice nurse to instead refer to an advanced practice registered nurse and specifies that a reference in any other law to an "advanced nurse practitioner" or "advanced practice nurse" means an advanced practice registered nurse. The bill, in a definition of "advanced practice registered nurse," for purposes of statutory provisions relating to rules regarding specialized training, specifies that the term refers to a registered nurse licensed, rather than approved, by the Texas Board of Nursing to practice as an advanced practice registered nurse and that, in addition to being synonymous with the term "advanced nurse practitioner," is also synonymous with the term "advanced practice nurse." The bill requires the Texas Board of Nursing to adopt rules to license a registered nurse as an advanced practice registered nurse. The bill specifies that Texas Board of Nursing rules must establish any specialized education or training required for an advanced practice registered nurse to prescribe or order a drug or device as delegated by a physician in a prescriptive authority agreement or at a facility-based site and establish a system for approving and issuing a prescription authorization number to such a nurse. The bill requires the Texas Board of Nursing to adopt rules to renew a license issued and the prescribing approval granted to such a nurse under those rules concurrently with the renewal of the advanced practice registered nurse's professional nursing license. The bill requires Texas Board of Nursing rules to require completion of and continuing education in pharmacology and pathophysiology, rather than pathology, for purposes of approving an advanced practice registered nurse's prescribing authority.

C.S.S.B. 406 requires the Texas Board of Nursing, in conjunction with the Texas Medical Board and the Texas Physician Assistant Board, to perform the functions and duties relating to prescriptive authority agreements assigned to the Texas Board of Nursing under the bill's provisions.

C.S.S.B. 406 amends the Occupations Code and the Health and Safety Code to redefine "practitioner," for purposes of the Texas Pharmacy Act, the Texas Controlled Substances Act, and the Texas Dangerous Drug Act, to include an advanced practice registered nurse or physician assistant to whom a physician has delegated the authority to prescribe or order a drug or device under a prescriptive authority agreement.

C.S.S.B. 406 amends the Government Code to require a contract between a managed care organization and the Health and Human Services Commission (HHSC) for the organization to provide health care services to Medicaid recipients under the Medicaid managed care program to contain a requirement that the organization use advanced practice registered nurses and physician assistants in addition to physicians as primary care providers and that the organization treat advanced practice registered nurses and physician assistants in the same manner as primary care physicians with regard to selection and assignment as primary care providers, inclusion as primary care providers in the organization's provider network, and inclusion as primary care providers in any provider network directory maintained by the organization. The bill clarifies

that the licensed physician provided by the pilot program to make nurse practitioners or physician assistants available in certain state office complexes will delegate to and supervise the advanced practice registered nurse or physician assistant under a prescriptive authority agreement.

C.S.S.B. 406 amends the Health and Safety Code to require the executive commissioner of HHSC to adopt rules to require a managed care organization or other entity operating as part of the child health plan program to ensure that advanced practice registered nurses and physician assistants are available as primary care providers in the organization's or entity's provider network. The bill requires the rules to require advanced practice registered nurses and physician assistants to be treated in the same manner as primary care physicians with regard to selection and assignment as primary care providers, inclusion as primary care providers in the provider network, and inclusion as primary care providers in any provider network directory maintained by the organization or entity.

C.S.S.B. 406 amends the Human Resources Code to require HHSC to ensure that advanced practice registered nurses and physician assistants may be selected by and assigned to recipients of Medicaid as the primary care providers of those recipients. The bill requires HHSC to require that advanced practice registered nurses and physician assistants be treated in the same manner as primary care physicians with regard to selection and assignment as primary care providers and with regard to inclusion as primary care providers in any directory of Medicaid providers maintained by HHSC. The bill authorizes an advanced practice registered nurse or physician assistant acting under adequate physician supervision and to whom a physician has delegated the authority to prescribe and order drugs and devices to order and prescribe durable medical equipment and supplies under the Medicaid program, to the extent allowed by federal law.

C.S.S.B. 406 requires the calculation of the amount of time an advanced practice registered nurse or physician assistant has practiced under the delegated prescriptive authority of a physician under a prescriptive authority agreement to include the amount of time the advanced practice registered nurse or physician assistant practiced under the delegated prescriptive authority of that physician before the bill's effective date. The bill requires the Texas Medical Board, the Texas Board of Nursing, and the Texas Physician Assistant Board to adopt the rules necessary to implement the bill's provisions not later than November 1, 2013.

C.S.S.B. 406 repeals the following provisions of the Occupations Code:

- Section 157.052
- Section 157.053
- Section 157.0541
- Section 157.0542

EFFECTIVE DATE

November 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 406 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. The heading to Subchapter	SECTION 1. Same as engrossed version.

B, Chapter 157, Occupations Code, is amended.

SECTION 2. Section 157.051, Occupations Code, is amended to read as follows:

Sec. 157.051. DEFINITIONS. In this subchapter:

(1) "Advanced practice registered nurse" has the meaning assigned to that term by Section 301.152. The term includes an advanced nurse practitioner and advanced practice nurse.

(2) [~~"Carrying out or signing a prescription drug order" means completing a prescription drug order presigned by the delegating physician, or the signing of a prescription by a registered nurse or physician assistant.~~

[~~(2-a)~~] "Controlled substance" has the meaning assigned to that term by Section 481.002, Health and Safety Code.

(3) [~~(2-b)~~] "Dangerous drug" has the meaning assigned to that term by Section 483.001, Health and Safety Code.

(4) "Health professional 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 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. Section 254e(a)(1).

(5) "Hospital" means:

(A) a general hospital or a special

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Sec. 157.051. DEFINITIONS. In this subchapter:

(1) "Advanced practice registered nurse" has the meaning assigned to that term by Section 301.152. The term includes an advanced nurse practitioner and advanced practice nurse.

(2) [~~"Carrying out or signing a prescription drug order" means completing a prescription drug order presigned by the delegating physician, or the signing of a prescription by a registered nurse or physician assistant.~~

[~~(2-a)~~] "Controlled substance" has the meaning assigned to that term by Section 481.002, Health and Safety Code.

(3) [~~(2-b)~~] "Dangerous drug" has the meaning assigned to that term by Section 483.001, Health and Safety Code.

(4) "Device" has the meaning assigned by Section 551.003, and includes durable medical equipment.

(5) "Health professional 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 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. Section 254e(a)(1).

(6) "Hospital" means a facility that:

(A) is:

(i) a general hospital or a special

hospital, as those terms are defined by Section 241.003, Health and Safety Code, including a hospital maintained or operated by the state; or

(B) a mental hospital licensed under Chapter 577, Health and Safety Code.

(6) "Medication order" has the meanings assigned by Section 551.003 of this code and Section 481.002, Health and Safety Code.

(7) "Nonprescription drug" has the meaning assigned by Section 551.003.

(8) [~~(3)~~] "Physician assistant" means a person who holds a license issued under Chapter 204.

(9) "Physician group practice" means 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 Section 162.001(b) that complies with the requirements of Chapter 162.

(10) "Practice serving a medically underserved population" means:

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

(B) a clinic designated as a rural health clinic under 42 U.S.C. Section 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. Section 1396d(l)(2)(B);

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

(F) a practice:

(i) that either:

(a) 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

(b) is a practice that the Department of

hospital, as those terms are defined by Section 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.

(7) "Medication order" has the meanings assigned by Section 551.003 of this code and Section 481.002, Health and Safety Code.

(8) "Nonprescription drug" has the meaning assigned by Section 551.003.

(9) [~~(3)~~] "Physician assistant" means a person who holds a license issued under Chapter 204.

(10) "Physician group practice" means 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 Section 162.001(b) that complies with the requirements of Chapter 162.

(11) "Practice serving a medically underserved population" means:

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

(B) a clinic designated as a rural health clinic under 42 U.S.C. Section 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. Section 1396d(l)(2)(B);

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

(F) a practice:

(i) that either:

(a) 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

(b) 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.

(11) "Prescribe or order a drug or device" means prescribing or ordering a drug or device, including the issuing of a prescription drug order or a medication order.

(12) "Prescription drug" has the meaning assigned by Section 551.003.

(13) "Prescriptive authority agreement" means 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.

SECTION 3. Section 157.0511, Occupations Code, is amended to read as follows:

Sec. 157.0511. DELEGATION OF PRESCRIBING AND ORDERING DRUGS AND DEVICES [~~PRESCRIPTION DRUG ORDERS~~].

(a) A physician's authority to delegate the prescribing or ordering of a drug or device [~~carrying out or signing of a prescription drug order~~] under this subchapter is limited to:

(1) nonprescription drugs;

(2) dangerous drugs; and

(3) [~~(2)~~] controlled substances to the extent provided by Subsections [~~Subsection~~] (b) and (b-1).

(b) Except as provided by Subsection (b-1), a [~~A~~] physician may delegate the prescribing or ordering of [~~carrying out~~

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.

(12) "Prescribe or order a drug or device" means prescribing or ordering a drug or device, including the issuing of a prescription drug order or a medication order.

(13) "Prescription drug" has the meaning assigned by Section 551.003.

(14) "Prescriptive authority agreement" means 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.

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(a) A physician's authority to delegate the prescribing or ordering of a drug or device [~~carrying out or signing of a prescription drug order~~] under this subchapter is limited to:

(1) nonprescription drugs;

(2) dangerous drugs; and

(3) [~~(2)~~] controlled substances to the extent provided by Subsections [~~Subsection~~] (b) and (b-1).

(b) Except as provided by Subsection (b-1), a [~~A~~] physician may delegate the prescribing or ordering of [~~carrying out~~

~~or signing of a prescription drug order for~~] 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 [~~public health~~] under Chapter 481, 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 delegating 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.

(b-1) 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 Section 157.054 and 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 to ensure patient safety; or

(2) as part of the plan of care for the treatment of a 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.

(b-2) The board shall adopt rules that require a physician who delegates the prescribing or ordering of a drug or device [~~carrying out or signing of a prescription drug order under this subchapter~~] to register with the board the name and license number of the

~~or signing of a prescription drug order for~~] 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 [~~public health~~] under Chapter 481, 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 delegating physician and the consultation is noted in the patient's chart; and

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(b-1) 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 Section 157.054, 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 a 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.

(b-2) The board shall adopt rules that require a physician who delegates the prescribing or ordering of a drug or device [~~carrying out or signing of a prescription drug order under this subchapter~~] to register with the board the name and license number of the

physician assistant or advanced practice registered nurse to whom a delegation is made. The board may develop and use an electronic online delegation registration process for registration under this subsection.

(c) This subchapter does not modify the authority granted by law for a licensed registered nurse or physician assistant to administer or provide a medication, including a controlled substance listed in Schedule II as established by the commissioner of the Department of State Health Services [~~public health~~] under Chapter 481, Health and Safety Code, that is authorized by a physician under a physician's order, standing medical order, standing delegation order, or protocol.

SECTION 4. Subchapter B, Chapter 157, Occupations Code, is amended by adding Sections 157.0512, 157.0513, and 157.0514 to read as follows:

Sec. 157.0512. PRESCRIPTIVE AUTHORITY AGREEMENT. (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 subchapter;

(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 or advanced practice registered nurse to whom a delegation is made. The board may develop and use an electronic online delegation registration process for registration under this subsection.

(c) This subchapter does not modify the authority granted by law for a licensed registered nurse or physician assistant to administer or provide a medication, including a controlled substance listed in Schedule II as established by the commissioner of the Department of State Health Services [~~public health~~] under Chapter 481, Health and Safety Code, that is authorized by a physician under a physician's order, standing medical order, standing delegation order, or protocol.

SECTION 4. Subchapter B, Chapter 157, Occupations Code, is amended by adding Sections 157.0512, 157.0513, and 157.0514 to read as follows:

Sec. 157.0512. PRESCRIPTIVE AUTHORITY AGREEMENT. (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 subchapter;

(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; and

(3) 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.

(c) Except as provided by Subsection (d), 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.

(d) Subsection (c) 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 Section 157.054.

(e) A 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

Physician Assistant Board, as applicable, from executing a prescriptive authority agreement; and

(3) 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.

(c) Except as provided by Subsection (d), 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.

(d) Subsection (c) 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 Section 157.054.

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(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.

(f) The periodic face-to-face meetings described by Subsection (e)(9)(B) must:

(1) include:

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

(B) discussion of patient care improvement; and

(2) be documented and occur:

(A) except as provided by Paragraph (B):

(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

(B) if during the seven years preceding the date the agreement is executed the advanced practice registered nurse or

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.

(f) The periodic face-to-face meetings described by Subsection (e)(9)(B) must:

(1) include:

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

(B) discussion of patient care improvement; and

(2) be documented and occur:

(A) except as provided by Paragraph (B):

(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

(B) if during the seven years preceding the date the agreement is executed the advanced practice registered nurse or

physician assistant for at least five years was in a practice that included the exercise of prescriptive authority with required physician supervision:

(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.

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

(h) 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 Subsection (e)(8), if any, to conduct and document the quality assurance meetings in accordance with the requirements of this subchapter.

(i) 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.

(j) 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.

(k) A party to a prescriptive authority agreement may not by contract waive, void, or nullify any provision of this section or Section 157.0513.

(l) 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.

(m) The prescriptive authority agreement and any amendments must be

physician assistant for at least five years was in a practice that included the exercise of prescriptive authority with required physician supervision:

(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.

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

(h) 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 Subsection (e)(8), if any, to conduct and document the quality assurance meetings in accordance with the requirements of this subchapter.

(i) 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.

(j) 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.

(k) A party to a prescriptive authority agreement may not by contract waive, void, or nullify any provision of this section or Section 157.0513.

(l) 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.

(m) 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.	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.
(n) 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.	(n) 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.
(o) 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.	(o) 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.
(p) The board may not adopt rules pertaining to the elements of a prescriptive authority agreement that would impose requirements in addition to the requirements under this section.	(p) The board may not adopt rules pertaining to the elements of a prescriptive authority agreement that would impose requirements in addition to the requirements under this section. The board may adopt other rules relating to physician delegation under this chapter.
(q) The board, the Texas Board of Nursing, and the Texas Physician Assistant Board shall jointly develop responses to frequently asked questions relating to prescriptive authority agreements not later than January 1, 2014. This subsection expires January 1, 2015.	(q) The board, the Texas Board of Nursing, and the Texas Physician Assistant Board shall jointly develop responses to frequently asked questions relating to prescriptive authority agreements not later than January 1, 2014. This subsection expires January 1, 2015.
Sec. 157.0513. PRESCRIPTIVE AUTHORITY AGREEMENT: INFORMATION.	Sec. 157.0513. PRESCRIPTIVE AUTHORITY AGREEMENT: INFORMATION.
Sec. 157.0514. PRESCRIPTIVE AUTHORITY AGREEMENT: INSPECTIONS.	Sec. 157.0514. PRESCRIPTIVE AUTHORITY AGREEMENT: INSPECTIONS.
SECTION 5. Section 157.054, Occupations Code, is amended.	SECTION 5. Same as engrossed version.
SECTION 6. Section 157.055,	SECTION 6. Same as engrossed version.

Occupations Code, is amended.	
SECTION 7. Section 157.057, Occupations Code, is amended.	SECTION 7. Same as engrossed version.
SECTION 8. Subsections (b), (d), (e), (f), and (j), Section 157.059, Occupations Code, are amended.	SECTION 8. Same as engrossed version except for recitation.
SECTION 9. Section 157.060, Occupations Code, is amended.	SECTION 9. Same as engrossed version.
SECTION 10. Section 156.056, Occupations Code, is amended.	SECTION 10. Same as engrossed version.
SECTION 11. Subchapter C, Chapter 204, Occupations Code, is amended.	SECTION 11. Same as engrossed version.
SECTION 12. Section 204.1565, Occupations Code, is amended.	SECTION 12. Same as engrossed version.
SECTION 13. Subsection (b), Section 204.202, Occupations Code, is amended.	SECTION 13. Same as engrossed version except for recitation.
No equivalent provision.	SECTION 14. Section 204.204, Occupations Code, is amended by adding Subsection (c) to read as follows: <u>(c) The number of physician assistants a physician may supervise in a practice setting may not be less than the number of physician assistants to whom a physician may delegate the authority to prescribe or order a drug or device in that practice setting under Subchapter B, Chapter 157.</u>
SECTION 14. Subdivision (2), Section 301.002, Occupations Code, is amended.	SECTION 15. Same as engrossed version except for recitation.
SECTION 15. Section 301.005, Occupations Code, is amended.	SECTION 16. Same as engrossed version.
SECTION 16. Section 301.152, Occupations Code, is amended.	SECTION 17. Same as engrossed version.
SECTION 17. Subchapter D, Chapter 301, Occupations Code, is amended.	SECTION 18. Same as engrossed version.
SECTION 18. Subdivisions (34) and (45), Section 551.003, Occupations Code, are amended.	SECTION 19. Same as engrossed version except for recitation.
No equivalent provision.	SECTION 20. Section 533.005(a), Government Code, is amended to read as

	follows: (a) A contract between a managed care organization and the commission for the organization to provide health care services to recipients must contain:
No equivalent provision.	(1) procedures to ensure accountability to the state for the provision of health care services, including procedures for financial reporting, quality assurance, utilization review, and assurance of contract and subcontract compliance;
No equivalent provision.	(2) capitation rates that ensure the cost-effective provision of quality health care;
No equivalent provision.	(3) a requirement that the managed care organization provide ready access to a person who assists recipients in resolving issues relating to enrollment, plan administration, education and training, access to services, and grievance procedures;
No equivalent provision.	(4) a requirement that the managed care organization provide ready access to a person who assists providers in resolving issues relating to payment, plan administration, education and training, and grievance procedures;
No equivalent provision.	(5) a requirement that the managed care organization provide information and referral about the availability of educational, social, and other community services that could benefit a recipient;
No equivalent provision.	(6) procedures for recipient outreach and education;
No equivalent provision.	(7) a requirement that the managed care organization make payment to a physician or provider for health care services rendered to a recipient under a managed care plan not later than the 45th day after the date a claim for payment is received with documentation reasonably necessary for the managed care organization to process the claim, or within a period, not to exceed 60 days, specified by a written agreement between the physician or provider and the managed care organization;
No equivalent provision.	(8) a requirement that the commission, on the date of a recipient's enrollment in a managed care plan issued by the managed care organization, inform the organization of the recipient's Medicaid certification date;
No equivalent provision.	(9) a requirement that the managed care

	organization comply with Section 533.006 as a condition of contract retention and renewal;
No equivalent provision.	(10) a requirement that the managed care organization provide the information required by Section 533.012 and otherwise comply and cooperate with the commission's office of inspector general and the office of the attorney general;
No equivalent provision.	(11) a requirement that the managed care organization's usages of out-of-network providers or groups of out-of-network providers may not exceed limits for those usages relating to total inpatient admissions, total outpatient services, and emergency room admissions determined by the commission;
No equivalent provision.	(12) if the commission finds that a managed care organization has violated Subdivision (11), a requirement that the managed care organization reimburse an out-of-network provider for health care services at a rate that is equal to the allowable rate for those services, as determined under Sections 32.028 and 32.0281, Human Resources Code;
No equivalent provision.	(13) a requirement that, notwithstanding any other law, including Sections 843.312 and 1301.052, Insurance Code, the organization: (A) use advanced practice registered nurses and physician assistants in addition to physicians as primary care providers to increase the availability of primary care providers in the organization's provider network; and (B) treat advanced practice registered nurses and physician assistants in the same manner as primary care physicians with regard to: (i) selection and assignment as primary care providers; (ii) inclusion as primary care providers in the organization's provider network; and (iii) inclusion as primary care providers in any provider network directory maintained by the organization;
No equivalent provision.	(14) a requirement that the managed care organization reimburse a federally qualified health center or rural health clinic for health care services provided to a recipient outside of regular business

	hours, including on a weekend day or holiday, at a rate that is equal to the allowable rate for those services as determined under Section 32.028, Human Resources Code, if the recipient does not have a referral from the recipient's primary care physician;
No equivalent provision.	(15) a requirement that the managed care organization develop, implement, and maintain a system for tracking and resolving all provider appeals related to claims payment, including a process that will require: (A) a tracking mechanism to document the status and final disposition of each provider's claims payment appeal; (B) the contracting with physicians who are not network providers and who are of the same or related specialty as the appealing physician to resolve claims disputes related to denial on the basis of medical necessity that remain unresolved subsequent to a provider appeal; and (C) the determination of the physician resolving the dispute to be binding on the managed care organization and provider;
No equivalent provision.	(16) a requirement that a medical director who is authorized to make medical necessity determinations is available to the region where the managed care organization provides health care services;
No equivalent provision.	(17) a requirement that the managed care organization ensure that a medical director and patient care coordinators and provider and recipient support services personnel are located in the South Texas service region, if the managed care organization provides a managed care plan in that region;
No equivalent provision.	(18) a requirement that the managed care organization provide special programs and materials for recipients with limited English proficiency or low literacy skills;
No equivalent provision.	(19) a requirement that the managed care organization develop and establish a process for responding to provider appeals in the region where the organization provides health care services;
No equivalent provision.	(20) a requirement that the managed care organization develop and submit to

	the commission, before the organization begins to provide health care services to recipients, a comprehensive plan that describes how the organization's provider network will provide recipients sufficient access to: (A) preventive care; (B) primary care; (C) specialty care; (D) after-hours urgent care; and (E) chronic care;
No equivalent provision.	(21) a requirement that the managed care organization demonstrate to the commission, before the organization begins to provide health care services to recipients, that: (A) the organization's provider network has the capacity to serve the number of recipients expected to enroll in a managed care plan offered by the organization; (B) the organization's provider network includes: (i) a sufficient number of primary care providers; (ii) a sufficient variety of provider types; and (iii) providers located throughout the region where the organization will provide health care services; and (C) health care services will be accessible to recipients through the organization's provider network to a comparable extent that health care services would be available to recipients under a fee-for-service or primary care case management model of Medicaid managed care;
No equivalent provision.	(22) a requirement that the managed care organization develop a monitoring program for measuring the quality of the health care services provided by the organization's provider network that: (A) incorporates the National Committee for Quality Assurance's Healthcare Effectiveness Data and Information Set (HEDIS) measures; (B) focuses on measuring outcomes; and (C) includes the collection and analysis of clinical data relating to prenatal care, preventive care, mental health care, and the treatment of acute and chronic health conditions and substance abuse;
No equivalent provision.	(23) subject to Subsection (a-1), a

requirement that the managed care organization develop, implement, and maintain an outpatient pharmacy benefit plan for its enrolled recipients:

(A) that exclusively employs the vendor drug program formulary and preserves the state's ability to reduce waste, fraud, and abuse under the Medicaid program;

(B) that adheres to the applicable preferred drug list adopted by the commission under Section 531.072;

(C) that includes the prior authorization procedures and requirements prescribed by or implemented under Sections 531.073(b), (c), and (g) for the vendor drug program;

(D) for purposes of which the managed care organization:

(i) may not negotiate or collect rebates associated with pharmacy products on the vendor drug program formulary; and

(ii) may not receive drug rebate or pricing information that is confidential under Section 531.071;

(E) that complies with the prohibition under Section 531.089;

(F) under which the managed care organization may not prohibit, limit, or interfere with a recipient's selection of a pharmacy or pharmacist of the recipient's choice for the provision of pharmaceutical services under the plan through the imposition of different copayments;

(G) that allows the managed care organization or any subcontracted pharmacy benefit manager to contract with a pharmacist or pharmacy providers separately for specialty pharmacy services, except that:

(i) the managed care organization and pharmacy benefit manager are prohibited from allowing exclusive contracts with a specialty pharmacy owned wholly or partly by the pharmacy benefit manager responsible for the administration of the pharmacy benefit program; and

(ii) the managed care organization and pharmacy benefit manager must adopt policies and procedures for reclassifying prescription drugs from retail to specialty drugs, and those policies and procedures must be consistent with rules adopted by the executive commissioner

	and include notice to network pharmacy providers from the managed care organization; (H) under which the managed care organization may not prevent a pharmacy or pharmacist from participating as a provider if the pharmacy or pharmacist agrees to comply with the financial terms and conditions of the contract as well as other reasonable administrative and professional terms and conditions of the contract; (I) under which the managed care organization may include mail-order pharmacies in its networks, but may not require enrolled recipients to use those pharmacies, and may not charge an enrolled recipient who opts to use this service a fee, including postage and handling fees; and (J) under which the managed care organization or pharmacy benefit manager, as applicable, must pay claims in accordance with Section 843.339, Insurance Code; and
No equivalent provision.	(24) a requirement that the managed care organization and any entity with which the managed care organization contracts for the performance of services under a managed care plan disclose, at no cost, to the commission and, on request, the office of the attorney general all discounts, incentives, rebates, fees, free goods, bundling arrangements, and other agreements affecting the net cost of goods or services provided under the plan.
SECTION 19. Subsection (b), Section 671.001, Government Code, is amended.	SECTION 21. Same as engrossed version except for recitation.
No equivalent provision.	SECTION 22. Subchapter D, Chapter 62, Health and Safety Code, is amended by adding Section 62.1551 to read as follows: <u>Sec. 62.1551. INCLUSION OF CERTAIN HEALTH CARE PROVIDERS IN PROVIDER NETWORKS. Notwithstanding any other law, including Sections 843.312 and 1301.052, Insurance Code, the executive commissioner of the commission shall adopt rules to require a managed care organization or other</u>

	entity to ensure that advanced practice registered nurses and physician assistants are available as primary care providers in the organization's or entity's provider network. The rules must require advanced practice registered nurses and physician assistants to be treated in the same manner as primary care physicians with regard to: (1) selection and assignment as primary care providers; (2) inclusion as primary care providers in the provider network; and (3) inclusion as primary care providers in any provider network directory maintained by the organization or entity.
SECTION 20. Subdivision (39), Section 481.002, Health and Safety Code, is amended.	SECTION 23. Same as engrossed version except for recitation.
SECTION 21. Subdivision (12), Section 483.001, Health and Safety Code, is amended.	SECTION 24. Same as engrossed version except for recitation.
No equivalent provision.	SECTION 25. Section 32.024, Human Resources Code, is amended by adding Subsection (gg) to read as follows: (gg) Notwithstanding any other law, including Sections 843.312 and 1301.052, Insurance Code, the department shall ensure that advanced practice registered nurses and physician assistants may be selected by and assigned to recipients of medical assistance as the primary care providers of those recipients. The department must require that advanced practice registered nurses and physician assistants be treated in the same manner as primary care physicians with regard to: (1) selection and assignment as primary care providers; and (2) inclusion as primary care providers in any directory of providers of medical assistance maintained by the department.
No equivalent provision.	SECTION 26. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.03141 to read as follows: Sec. 32.03141. AUTHORITY OF ADVANCED PRACTICE REGISTERED NURSES AND

	PHYSICIAN ASSISTANTS REGARDING DURABLE MEDICAL EQUIPMENT AND SUPPLIES. To the extent allowed by federal law, an advanced practice registered nurse or physician assistant acting under adequate physician supervision and to whom a physician has delegated the authority to prescribe and order drugs and devices under Chapter 157, Occupations Code, may order and prescribe durable medical equipment and supplies under the medical assistance program.
SECTION 22. Sections 157.052, 157.053, 157.0541, and 157.0542, Occupations Code, are repealed.	SECTION 27. Same as engrossed version.
SECTION 23. The changes in law made by this Act apply only to a delegation of prescriptive authority by a physician to an advanced practice registered nurse or physician assistant made or amended on or after January 31, 2014. A delegation of prescriptive authority made or amended before January 31, 2014, is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.	No equivalent provision.
SECTION 24. The calculation under Chapter 157, Occupations Code, as amended by this Act, of the amount of time an advanced practice registered nurse or physician assistant has practiced under the delegated prescriptive authority of a physician under a prescriptive authority agreement shall include the amount of time the advanced practice registered nurse or physician assistant practiced under the delegated prescriptive authority of that physician before the effective date of this Act.	SECTION 28. Same as engrossed version.
SECTION 25. Not later than December 31, 2013, the Texas Medical Board, the Texas Board of Nursing, and the Texas Physician Assistant Board shall adopt the rules necessary to implement the changes in law made by this Act.	SECTION 29. Not later than November 1, 2013, the Texas Medical Board, the Texas Board of Nursing, and the Texas Physician Assistant Board shall adopt the rules necessary to implement the changes in law made by this Act.
SECTION 26. This Act takes effect September 1, 2013.	SECTION 30. This Act takes effect November 1, 2013.