

1-1 By: Nelson S.B. No. 406
 1-2 (In the Senate - Filed February 6, 2013; February 6, 2013,
 1-3 read first time and referred to Committee on Health and Human
 1-4 Services; February 18, 2013, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
 1-6 February 18, 2013, sent to printer.)

1-7 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-8 | | | | |
| 1-9 | X | | | |
| 1-10 | X | | | |
| 1-11 | X | | | |
| 1-12 | X | | | |
| 1-13 | X | | | |
| 1-14 | X | | | |
| 1-15 | X | | | |
| 1-16 | X | | | |
| 1-17 | X | | | |

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 406 By: Nelson

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the delegation of prescriptive authority by physicians
 1-22 to and the supervision by physicians of certain advanced practice
 1-23 registered nurses and physician assistants.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. The heading to Subchapter B, Chapter 157,
 1-26 Occupations Code, is amended to read as follows:

1-27 SUBCHAPTER B. DELEGATION TO ADVANCED PRACTICE REGISTERED NURSES
 1-28 AND PHYSICIAN ASSISTANTS

1-29 SECTION 2. Section 157.051, Occupations Code, is amended to
 1-30 read as follows:

1-31 Sec. 157.051. DEFINITIONS. In this subchapter:

1-32 (1) "Advanced practice registered nurse" has the
 1-33 meaning assigned to that term by Section 301.152. The term includes
 1-34 an advanced nurse practitioner and advanced practice nurse.

1-35 (2) [~~"Carrying out or signing a prescription drug~~
 1-36 ~~order" means completing a prescription drug order presigned by the~~
 1-37 ~~delegating physician, or the signing of a prescription by a~~
 1-38 ~~registered nurse or physician assistant.~~

1-39 [~~(2-a)~~] "Controlled substance" has the meaning
 1-40 assigned to that term by Section 481.002, Health and Safety Code.

1-41 (3) [~~(2-b)~~] "Dangerous drug" has the meaning assigned
 1-42 to that term by Section 483.001, Health and Safety Code.

1-43 (4) "Health professional shortage area" means:

1-44 (A) an urban or rural area of this state that:

1-45 (i) is not required to conform to the
 1-46 geographic boundaries of a political subdivision but is a rational
 1-47 area for the delivery of health services;

1-48 (ii) the secretary of health and human
 1-49 services determines has a health professional shortage; and

1-50 (iii) is not reasonably accessible to an
 1-51 adequately served area;

1-52 (B) a population group that the secretary of
 1-53 health and human services determines has a health professional
 1-54 shortage; or

1-55 (C) a public or nonprofit private medical
 1-56 facility or other facility that the secretary of health and human
 1-57 services determines has a health professional shortage, as
 1-58 described by 42 U.S.C. Section 254e(a)(1).

1-59 (5) "Hospital" means:

1-60 (A) a general hospital or a special hospital, as

2-1 those terms are defined by Section 241.003, Health and Safety Code,
 2-2 including a hospital maintained or operated by the state; or
 2-3 (B) a mental hospital licensed under Chapter 577,
 2-4 Health and Safety Code.
 2-5 (6) "Medication order" has the meanings assigned by
 2-6 Section 551.003 of this code and Section 481.002, Health and Safety
 2-7 Code.
 2-8 (7) "Nonprescription drug" has the meaning assigned by
 2-9 Section 551.003.
 2-10 (8) ~~[(3)]~~ "Physician assistant" means a person who
 2-11 holds a license issued under Chapter 204.
 2-12 (9) "Physician group practice" means an entity through
 2-13 which two or more physicians deliver health care to the public
 2-14 through the practice of medicine on a regular basis and that is:
 2-15 (A) owned and operated by two or more physicians;
 2-16 or
 2-17 (B) a freestanding clinic, center, or office of a
 2-18 nonprofit health organization certified by the board under Section
 2-19 162.001(b) that complies with the requirements of Chapter 162.
 2-20 (10) "Practice serving a medically underserved
 2-21 population" means:
 2-22 (A) a practice in a health professional shortage
 2-23 area;
 2-24 (B) a clinic designated as a rural health clinic
 2-25 under 42 U.S.C. Section 1395x(aa);
 2-26 (C) a public health clinic or a family planning
 2-27 clinic under contract with the Health and Human Services Commission
 2-28 or the Department of State Health Services;
 2-29 (D) a clinic designated as a federally qualified
 2-30 health center under 42 U.S.C. Section 1396d(l)(2)(B);
 2-31 (E) a county, state, or federal correctional
 2-32 facility;
 2-33 (F) a practice:
 2-34 (i) that either:
 2-35 (a) is located in an area in which the
 2-36 Department of State Health Services determines there is an
 2-37 insufficient number of physicians providing services to eligible
 2-38 clients of federally, state, or locally funded health care
 2-39 programs; or
 2-40 (b) is a practice that the Department
 2-41 of State Health Services determines serves a disproportionate
 2-42 number of clients eligible to participate in federally, state, or
 2-43 locally funded health care programs; and
 2-44 (ii) for which the Department of State
 2-45 Health Services publishes notice of the department's determination
 2-46 in the Texas Register and provides an opportunity for public
 2-47 comment in the manner provided for a proposed rule under Chapter
 2-48 2001, Government Code; or
 2-49 (G) a practice at which a physician was
 2-50 delegating prescriptive authority to an advanced practice
 2-51 registered nurse or physician assistant on or before March 1, 2013,
 2-52 based on the practice qualifying as a site serving a medically
 2-53 underserved population.
 2-54 (11) "Prescribe or order a drug or device" means
 2-55 prescribing or ordering a drug or device, including the issuing of a
 2-56 prescription drug order or a medication order.
 2-57 (12) "Prescription drug" has the meaning assigned by
 2-58 Section 551.003.
 2-59 (13) "Prescriptive authority agreement" means an
 2-60 agreement entered into by a physician and an advanced practice
 2-61 registered nurse or physician assistant through which the physician
 2-62 delegates to the advanced practice registered nurse or physician
 2-63 assistant the act of prescribing or ordering a drug or device.
 2-64 SECTION 3. Section 157.0511, Occupations Code, is amended
 2-65 to read as follows:
 2-66 Sec. 157.0511. DELEGATION OF PRESCRIBING AND ORDERING DRUGS
 2-67 AND DEVICES [~~PRESCRIPTION DRUG ORDERS~~]. (a) A physician's
 2-68 authority to delegate the prescribing or ordering of a drug or
 2-69 device [~~carrying out or signing of a prescription drug order~~] under

3-1 this subchapter is limited to:

3-2 (1) nonprescription drugs;

3-3 (2) dangerous drugs; and

3-4 (3) ~~[-2-]~~ controlled substances to the extent
 3-5 provided by Subsections [Subsection] (b) and (b-1).

3-6 (b) Except as provided by Subsection (b-1), a [A] physician
 3-7 may delegate the prescribing or ordering of [carrying out or
 3-8 signing of a prescription drug order for] a controlled substance
 3-9 only if:

3-10 (1) the prescription is for a controlled substance
 3-11 listed in Schedule III, IV, or V as established by the commissioner
 3-12 of the Department of State Health Services [public health] under
 3-13 Chapter 481, Health and Safety Code;

3-14 (2) the prescription, including a refill of the
 3-15 prescription, is for a period not to exceed 90 days;

3-16 (3) with regard to the refill of a prescription, the
 3-17 refill is authorized after consultation with the delegating
 3-18 physician and the consultation is noted in the patient's chart; and

3-19 (4) with regard to a prescription for a child less than
 3-20 two years of age, the prescription is made after consultation with
 3-21 the delegating physician and the consultation is noted in the
 3-22 patient's chart.

3-23 (b-1) A physician may delegate the prescribing or ordering
 3-24 of a controlled substance listed in Schedule II as established by
 3-25 the commissioner of the Department of State Health Services under
 3-26 Chapter 481, Health and Safety Code, only:

3-27 (1) in a hospital facility-based practice under
 3-28 Section 157.054 and in accordance with policies approved by the
 3-29 facility's medical staff or a committee of the facility's medical
 3-30 staff as provided by the facility bylaws to ensure patient safety;
 3-31 or

3-32 (2) as part of the plan of care for the treatment of a
 3-33 person who has executed a written certification of a terminal
 3-34 illness, has elected to receive hospice care, and is receiving
 3-35 hospice treatment from a qualified hospice provider.

3-36 (b-2) The board shall adopt rules that require a physician
 3-37 who delegates the prescribing or ordering of a drug or device
 3-38 [carrying out or signing of a prescription drug order under this
 3-39 subchapter] to register with the board the name and license number
 3-40 of the physician assistant or advanced practice registered nurse to
 3-41 whom a delegation is made. The board may develop and use an
 3-42 electronic online delegation registration process for registration
 3-43 under this subsection.

3-44 (c) This subchapter does not modify the authority granted by
 3-45 law for a licensed registered nurse or physician assistant to
 3-46 administer or provide a medication, including a controlled
 3-47 substance listed in Schedule II as established by the commissioner
 3-48 of the Department of State Health Services [public health] under
 3-49 Chapter 481, Health and Safety Code, that is authorized by a
 3-50 physician under a physician's order, standing medical order,
 3-51 standing delegation order, or protocol.

3-52 SECTION 4. Subchapter B, Chapter 157, Occupations Code, is
 3-53 amended by adding Sections 157.0512, 157.0513, and 157.0514 to read
 3-54 as follows:

3-55 Sec. 157.0512. PRESCRIPTIVE AUTHORITY AGREEMENT. (a) A
 3-56 physician may delegate to an advanced practice registered nurse or
 3-57 physician assistant, acting under adequate physician supervision,
 3-58 the act of prescribing or ordering a drug or device as authorized
 3-59 through a prescriptive authority agreement between the physician
 3-60 and the advanced practice registered nurse or physician assistant,
 3-61 as applicable.

3-62 (b) A physician and an advanced practice registered nurse or
 3-63 physician assistant are eligible to enter into or be parties to a
 3-64 prescriptive authority agreement only if:

3-65 (1) if applicable, the Texas Board of Nursing has
 3-66 approved the advanced practice registered nurse's authority to
 3-67 prescribe or order a drug or device as authorized under this
 3-68 subchapter;

3-69 (2) the advanced practice registered nurse or

4-1 physician assistant:

4-2 (A) holds an active license to practice in this
 4-3 state as an advanced practice registered nurse or physician
 4-4 assistant, as applicable, and is in good standing in this state; and

4-5 (B) is not currently prohibited by the Texas
 4-6 Board of Nursing or the Texas Physician Assistant Board, as
 4-7 applicable, from executing a prescriptive authority agreement; and

4-8 (3) before executing the prescriptive authority
 4-9 agreement, the physician and the advanced practice registered nurse
 4-10 or physician assistant disclose to the other prospective party to
 4-11 the agreement any prior disciplinary action by the board, the Texas
 4-12 Board of Nursing, or the Texas Physician Assistant Board, as
 4-13 applicable.

4-14 (c) Except as provided by Subsection (d), the combined
 4-15 number of advanced practice registered nurses and physician
 4-16 assistants with whom a physician may enter into a prescriptive
 4-17 authority agreement may not exceed seven advanced practice
 4-18 registered nurses and physician assistants or the full-time
 4-19 equivalent of seven advanced practice registered nurses and
 4-20 physician assistants.

4-21 (d) Subsection (c) does not apply to a prescriptive
 4-22 authority agreement if the prescriptive authority is being
 4-23 exercised in:

4-24 (1) a practice serving a medically underserved
 4-25 population; or

4-26 (2) a facility-based practice in a hospital under
 4-27 Section 157.054.

4-28 (e) A prescriptive authority agreement must, at a minimum:

4-29 (1) be in writing and signed and dated by the parties
 4-30 to the agreement;

4-31 (2) state the name, address, and all professional
 4-32 license numbers of the parties to the agreement;

4-33 (3) state the nature of the practice, practice
 4-34 locations, or practice settings;

4-35 (4) identify the types or categories of drugs or
 4-36 devices that may be prescribed or the types or categories of drugs
 4-37 or devices that may not be prescribed;

4-38 (5) provide a general plan for addressing consultation
 4-39 and referral;

4-40 (6) provide a plan for addressing patient emergencies;

4-41 (7) state the general process for communication and
 4-42 the sharing of information between the physician and the advanced
 4-43 practice registered nurse or physician assistant to whom the
 4-44 physician has delegated prescriptive authority related to the care
 4-45 and treatment of patients;

4-46 (8) if alternate physician supervision is to be
 4-47 utilized, designate one or more alternate physicians who may:

4-48 (A) provide appropriate supervision on a
 4-49 temporary basis in accordance with the requirements established by
 4-50 the prescriptive authority agreement and the requirements of this
 4-51 subchapter; and

4-52 (B) participate in the prescriptive authority
 4-53 quality assurance and improvement plan meetings required under this
 4-54 section; and

4-55 (9) describe a prescriptive authority quality
 4-56 assurance and improvement plan and specify methods for documenting
 4-57 the implementation of the plan that includes the following:

4-58 (A) chart review, with the number of charts to be
 4-59 reviewed determined by the physician and advanced practice
 4-60 registered nurse or physician assistant; and

4-61 (B) periodic face-to-face meetings between the
 4-62 advanced practice registered nurse or physician assistant and the
 4-63 physician at a location determined by the physician and the
 4-64 advanced practice registered nurse or physician assistant.

4-65 (f) The periodic face-to-face meetings described by
 4-66 Subsection (e)(9)(B) must:

4-67 (1) include:

4-68 (A) the sharing of information relating to
 4-69 patient treatment and care, needed changes in patient care plans,

5-1 and issues relating to referrals; and

5-2 (B) discussion of patient care improvement; and

5-3 (2) be documented and occur:

5-4 (A) except as provided by Paragraph (B):

5-5 (i) at least monthly until the third
5-6 anniversary of the date the agreement is executed; and

5-7 (ii) at least quarterly after the third
5-8 anniversary of the date the agreement is executed, with monthly
5-9 meetings held between the quarterly meetings by means of a remote
5-10 electronic communications system, including videoconferencing
5-11 technology or the Internet; or

5-12 (B) if during the seven years preceding the date
5-13 the agreement is executed the advanced practice registered nurse or
5-14 physician assistant for at least five years was in a practice that
5-15 included the exercise of prescriptive authority with required
5-16 physician supervision:

5-17 (i) at least monthly until the first
5-18 anniversary of the date the agreement is executed; and

5-19 (ii) at least quarterly after the first
5-20 anniversary of the date the agreement is executed, with monthly
5-21 meetings held between the quarterly meetings by means of a remote
5-22 electronic communications system, including videoconferencing
5-23 technology or the Internet.

5-24 (g) The prescriptive authority agreement may include other
5-25 provisions agreed to by the physician and advanced practice
5-26 registered nurse or physician assistant.

5-27 (h) If the parties to the prescriptive authority agreement
5-28 practice in a physician group practice, the physician may appoint
5-29 one or more alternate supervising physicians designated under
5-30 Subsection (e)(8), if any, to conduct and document the quality
5-31 assurance meetings in accordance with the requirements of this
5-32 subchapter.

5-33 (i) The prescriptive authority agreement need not describe
5-34 the exact steps that an advanced practice registered nurse or
5-35 physician assistant must take with respect to each specific
5-36 condition, disease, or symptom.

5-37 (j) A physician, advanced practice registered nurse, or
5-38 physician assistant who is a party to a prescriptive authority
5-39 agreement must retain a copy of the agreement until the second
5-40 anniversary of the date the agreement is terminated.

5-41 (k) A party to a prescriptive authority agreement may not by
5-42 contract waive, void, or nullify any provision of this section or
5-43 Section 157.0513.

5-44 (l) In the event that a party to a prescriptive authority
5-45 agreement is notified that the individual has become the subject of
5-46 an investigation by the board, the Texas Board of Nursing, or the
5-47 Texas Physician Assistant Board, the individual shall immediately
5-48 notify the other party to the prescriptive authority agreement.

5-49 (m) The prescriptive authority agreement and any amendments
5-50 must be reviewed at least annually, dated, and signed by the parties
5-51 to the agreement. The prescriptive authority agreement and any
5-52 amendments must be made available to the board, the Texas Board of
5-53 Nursing, or the Texas Physician Assistant Board not later than the
5-54 third business day after the date of receipt of request, if any.

5-55 (n) The prescriptive authority agreement should promote the
5-56 exercise of professional judgment by the advanced practice
5-57 registered nurse or physician assistant commensurate with the
5-58 advanced practice registered nurse's or physician assistant's
5-59 education and experience and the relationship between the advanced
5-60 practice registered nurse or physician assistant and the physician.

5-61 (o) This section shall be liberally construed to allow the
5-62 use of prescriptive authority agreements to safely and effectively
5-63 utilize the skills and services of advanced practice registered
5-64 nurses and physician assistants.

5-65 (p) The board may not adopt rules pertaining to the elements
5-66 of a prescriptive authority agreement that would impose
5-67 requirements in addition to the requirements under this section.

5-68 (q) The board, the Texas Board of Nursing, and the Texas
5-69 Physician Assistant Board shall jointly develop responses to

6-1 frequently asked questions relating to prescriptive authority
 6-2 agreements not later than January 1, 2014. This subsection expires
 6-3 January 1, 2015.

6-4 Sec. 157.0513. PRESCRIPTIVE AUTHORITY AGREEMENT:
 6-5 INFORMATION. (a) The board, the Texas Board of Nursing, and the
 6-6 Texas Physician Assistant Board shall jointly develop a process:

6-7 (1) to exchange information regarding the names,
 6-8 locations, and license numbers of each physician, advanced practice
 6-9 registered nurse, and physician assistant who has entered into a
 6-10 prescriptive authority agreement;

6-11 (2) by which each board shall immediately notify the
 6-12 other boards when a license holder of the board becomes the subject
 6-13 of an investigation involving the delegation and supervision of
 6-14 prescriptive authority, as well as the final disposition of any
 6-15 such investigation; and

6-16 (3) by which each board shall maintain and share a list
 6-17 of the board's license holders who have been subject to a final
 6-18 adverse disciplinary action for an act involving the delegation and
 6-19 supervision of prescriptive authority.

6-20 (b) If the board, the Texas Board of Nursing, or the Texas
 6-21 Physician Assistant Board receives a notice under Subsection
 6-22 (a)(2), the board that received notice may open an investigation
 6-23 against a license holder of the board who is a party to a
 6-24 prescriptive authority agreement with the license holder who is
 6-25 under investigation by the board that provided notice under
 6-26 Subsection (a)(2).

6-27 (c) The board shall maintain and make available to the
 6-28 public a searchable online list of physicians, advanced practice
 6-29 registered nurses, and physician assistants who have entered into a
 6-30 prescriptive authority agreement authorized under Section 157.0512
 6-31 and identify the physician, advanced practice registered nurse, or
 6-32 physician assistant with whom each physician, advanced practice
 6-33 registered nurse, and physician assistant has entered into a
 6-34 prescriptive authority agreement.

6-35 (d) The board shall collaborate with the Texas Board of
 6-36 Nursing and the Texas Physician Assistant Board to maintain and
 6-37 make available to the public a list of physicians, advanced
 6-38 practice registered nurses, and physician assistants who are
 6-39 prohibited from entering into or practicing under a prescriptive
 6-40 authority agreement.

6-41 Sec. 157.0514. PRESCRIPTIVE AUTHORITY AGREEMENT:
 6-42 INSPECTIONS. If the board receives a notice under Section
 6-43 157.0513(a)(2), the board or an authorized board representative may
 6-44 enter, with reasonable notice and at a reasonable time, unless the
 6-45 notice would jeopardize an investigation, a site where a party to a
 6-46 prescriptive authority agreement practices to inspect and audit any
 6-47 records or activities relating to the implementation and operation
 6-48 of the agreement. To the extent reasonably possible, the board and
 6-49 the board's authorized representative shall conduct any inspection
 6-50 or audit under this section in a manner that minimizes disruption to
 6-51 the delivery of patient care.

6-52 SECTION 5. Section 157.054, Occupations Code, is amended by
 6-53 amending Subsections (a), (b), and (c) and adding Subsections (a-1)
 6-54 and (b-1) to read as follows:

6-55 (a) ~~One or more physicians~~ [A ~~physician~~] licensed by the
 6-56 board may delegate, to one or more physician assistants or advanced
 6-57 practice registered nurses acting under adequate physician
 6-58 supervision whose practice is facility-based at a [~~licensed~~]
 6-59 hospital or licensed long-term care facility, the administration or
 6-60 provision of a drug and the prescribing or ordering of a drug or
 6-61 device [~~carrying out or signing of a prescription drug order~~] if
 6-62 each of the delegating physicians [~~physician~~] is:

6-63 (1) the medical director or chief of medical staff of
 6-64 the facility in which the physician assistant or advanced practice
 6-65 registered nurse practices;

6-66 (2) the chair of the facility's credentialing
 6-67 committee;

6-68 (3) a department chair of a facility department in
 6-69 which the physician assistant or advanced practice registered nurse

7-1 practices; or

7-2 (4) a physician who consents to the request of the
7-3 medical director or chief of medical staff to delegate the
7-4 prescribing or ordering of a drug or device [~~carrying out or signing~~
7-5 ~~of a prescription drug order~~] at the facility in which the physician
7-6 assistant or advanced practice registered nurse practices.

7-7 (a-1) The limits on the number of advanced practice
7-8 registered nurses or physician assistants to whom a physician may
7-9 delegate under Section 157.0512 do not apply to a physician under
7-10 Subsection (a) whose practice is facility-based under this section,
7-11 provided that the physician is not delegating in a freestanding
7-12 clinic, center, or practice of the facility.

7-13 (b) A physician's authority to delegate under Subsection
7-14 (a) is limited as follows:

7-15 (1) the delegation must be made under a physician's
7-16 order, standing medical order, standing delegation order, or
7-17 another order or protocol developed in accordance with policies
7-18 approved by the facility's medical staff or a committee of the
7-19 facility's medical staff as provided by the facility bylaws;

7-20 (2) the delegation must occur in the facility in which
7-21 the physician is the medical director, the chief of medical staff,
7-22 the chair of the credentialing committee, [~~or~~] a department chair,
7-23 or a physician who consents to delegate under Subsection (a)(4);

7-24 (3) the delegation may not permit the prescribing or
7-25 ordering of a drug or device [~~carrying out or signing of~~
7-26 ~~prescription drug orders~~] for the care or treatment of the patients
7-27 of any other physician without the prior consent of that physician;
7-28 and

7-29 (4) delegation in a long-term care facility must be by
7-30 the medical director and is limited to the prescribing or ordering
7-31 of a drug or device [~~carrying out and signing of prescription drug~~
7-32 ~~orders~~] to not more than seven [~~four~~] advanced practice registered
7-33 nurses or physician assistants or their full-time equivalents. [~~+~~
7-34 ~~and~~]

7-35 (b-1) A facility-based [~~(5) a~~] physician may not delegate
7-36 at more than one [~~licensed~~] hospital or more than two long-term care
7-37 facilities under this section unless approved by the board. The
7-38 facility-based physician may not be prohibited from delegating the
7-39 prescribing or ordering of drugs or devices under Section 157.0512
7-40 at other practice locations, including hospitals or long-term care
7-41 facilities, provided that the delegation at those locations
7-42 complies with all the requirements of Section 157.0512.

7-43 (c) Physician supervision of the prescribing or ordering of
7-44 a drug or device [~~carrying out and signing of prescription drug~~
7-45 ~~orders~~] must conform to what a reasonable, prudent physician would
7-46 find consistent with sound medical judgment but may vary with the
7-47 education and experience of the particular advanced practice
7-48 registered nurse or physician assistant. A physician shall provide
7-49 continuous supervision, but the constant physical presence of the
7-50 physician is not required.

7-51 SECTION 6. Section 157.055, Occupations Code, is amended to
7-52 read as follows:

7-53 Sec. 157.055. ORDERS AND PROTOCOLS. A protocol or other
7-54 order shall be defined in a manner that promotes the exercise of
7-55 professional judgment by the advanced practice registered nurse and
7-56 physician assistant commensurate with the education and experience
7-57 of that person. Under this section, an order or protocol used by a
7-58 reasonable and prudent physician exercising sound medical
7-59 judgment:

7-60 (1) is not required to describe the exact steps that an
7-61 advanced practice registered nurse or a physician assistant must
7-62 take with respect to each specific condition, disease, or symptom;
7-63 and

7-64 (2) may state the types or categories of medications
7-65 that may be prescribed or the types or categories of medications
7-66 that may not be prescribed.

7-67 SECTION 7. Section 157.057, Occupations Code, is amended to
7-68 read as follows:

7-69 Sec. 157.057. ADDITIONAL IMPLEMENTATION METHODS. The board

8-1 may adopt additional methods to implement:

8-2 (1) a physician's prescription; or

8-3 (2) the delegation of prescriptive authority [~~the~~
8-4 ~~signing of a prescription under a physician's order, standing~~
8-5 ~~medical order, standing delegation order, or other order or~~
8-6 ~~protocol~~].

8-7 SECTION 8. Subsections (b), (d), (e), (f), and (j), Section
8-8 157.059, Occupations Code, are amended to read as follows:

8-9 (b) A physician may delegate to a physician assistant
8-10 offering obstetrical services and certified by the board as
8-11 specializing in obstetrics or an advanced practice registered nurse
8-12 recognized by the Texas Board of Nursing as a nurse midwife the act
8-13 of administering or providing controlled substances to the
8-14 physician assistant's or nurse midwife's clients during intrapartum
8-15 and immediate postpartum care.

8-16 (d) The delegation of authority to administer or provide
8-17 controlled substances under Subsection (b) must be under a
8-18 physician's order, medical order, standing delegation order,
8-19 prescriptive authority agreement, or protocol that requires
8-20 adequate and documented availability for access to medical care.

8-21 (e) The physician's orders, medical orders, standing
8-22 delegation orders, prescriptive authority agreements, or protocols
8-23 must require the reporting of or monitoring of each client's
8-24 progress, including complications of pregnancy and delivery and the
8-25 administration and provision of controlled substances by the nurse
8-26 midwife or physician assistant to the clients of the nurse midwife
8-27 or physician assistant.

8-28 (f) The authority of a physician to delegate under this
8-29 section is limited to:

8-30 (1) seven [~~four~~] nurse midwives or physician
8-31 assistants or their full-time equivalents; and

8-32 (2) the designated facility at which the nurse midwife
8-33 or physician assistant provides care.

8-34 (j) This section does not limit the authority of a physician
8-35 to delegate the prescribing or ordering of [~~carrying out or signing~~
8-36 ~~of a prescription drug order involving~~] a controlled substance
8-37 under this subchapter.

8-38 SECTION 9. Section 157.060, Occupations Code, is amended to
8-39 read as follows:

8-40 Sec. 157.060. PHYSICIAN LIABILITY FOR DELEGATED ACT.
8-41 Unless the physician has reason to believe the physician assistant
8-42 or advanced practice registered nurse lacked the competency to
8-43 perform the act, a physician is not liable for an act of a physician
8-44 assistant or advanced practice registered nurse solely because the
8-45 physician signed a standing medical order, a standing delegation
8-46 order, or another order or protocol, or entered into a prescriptive
8-47 authority agreement, authorizing the physician assistant or
8-48 advanced practice registered nurse to administer, provide,
8-49 prescribe, or order a drug or device [~~carry out, or sign a~~
8-50 ~~prescription drug order~~].

8-51 SECTION 10. Section 156.056, Occupations Code, is amended
8-52 to read as follows:

8-53 Sec. 156.056. CERTAIN VOLUNTEER SERVICES. (a) In this
8-54 section, "practice [~~site~~] serving a medically underserved
8-55 population" has the meaning assigned by Section 157.051 [~~157.052~~].

8-56 (b) The board by rule shall permit a license holder to
8-57 complete half of any informal continuing medical education hours
8-58 required under this subchapter by providing volunteer medical
8-59 services at a practice [~~site~~] serving a medically underserved
8-60 population other than a site that is a primary practice site of the
8-61 license holder.

8-62 SECTION 11. Subchapter C, Chapter 204, Occupations Code, is
8-63 amended by adding Section 204.1025 to read as follows:

8-64 Sec. 204.1025. DUTIES REGARDING PRESCRIPTIVE AUTHORITY
8-65 AGREEMENTS. The physician assistant board shall in conjunction
8-66 with the Texas Medical Board and the Texas Board of Nursing perform
8-67 the functions and duties relating to prescriptive authority
8-68 agreements assigned to the physician assistant board in Sections
8-69 157.0512 and 157.0513.

9-1 SECTION 12. Section 204.1565, Occupations Code, is amended
9-2 to read as follows:

9-3 Sec. 204.1565. INFORMAL CONTINUING MEDICAL EDUCATION. (a)
9-4 In this section, "practice [site] serving a medically underserved
9-5 population" has the meaning assigned by Section 157.051 [~~157.052~~].

9-6 (b) The physician assistant board by rule shall permit a
9-7 license holder to complete half of any informal continuing medical
9-8 education hours required to renew a license under this chapter by
9-9 providing volunteer medical services at a practice [site] serving a
9-10 medically underserved population, other than a site that is a
9-11 primary practice site of the license holder.

9-12 SECTION 13. Subsection (b), Section 204.202, Occupations
9-13 Code, is amended to read as follows:

9-14 (b) Medical services provided by a physician assistant may
9-15 include:

9-16 (1) obtaining patient histories and performing
9-17 physical examinations;

9-18 (2) ordering or performing diagnostic and therapeutic
9-19 procedures;

9-20 (3) formulating a working diagnosis;

9-21 (4) developing and implementing a treatment plan;

9-22 (5) monitoring the effectiveness of therapeutic
9-23 interventions;

9-24 (6) assisting at surgery;

9-25 (7) offering counseling and education to meet patient
9-26 needs;

9-27 (8) requesting, receiving, and signing for the receipt
9-28 of pharmaceutical sample prescription medications and distributing
9-29 the samples to patients in a specific practice setting in which the
9-30 physician assistant is authorized to prescribe pharmaceutical
9-31 medications and sign prescription drug orders as provided by
9-32 Section 157.0512 or [~~157.052, 157.053,~~] 157.054 [~~, 157.0541, or~~
9-33 ~~157.0542 or as otherwise authorized by physician assistant board~~
9-34 ~~rule~~];

9-35 (9) prescribing or ordering a drug or device [~~signing~~
9-36 ~~or completing a prescription~~] as provided by Subchapter B, Chapter
9-37 157; and

9-38 (10) making appropriate referrals.

9-39 SECTION 14. Subdivision (2), Section 301.002, Occupations
9-40 Code, is amended to read as follows:

9-41 (2) "Professional nursing" means the performance of an
9-42 act that requires substantial specialized judgment and skill, the
9-43 proper performance of which is based on knowledge and application
9-44 of the principles of biological, physical, and social science as
9-45 acquired by a completed course in an approved school of
9-46 professional nursing. The term does not include acts of medical
9-47 diagnosis or the prescription of therapeutic or corrective
9-48 measures. Professional nursing involves:

9-49 (A) the observation, assessment, intervention,
9-50 evaluation, rehabilitation, care and counsel, or health teachings
9-51 of a person who is ill, injured, infirm, or experiencing a change in
9-52 normal health processes;

9-53 (B) the maintenance of health or prevention of
9-54 illness;

9-55 (C) the administration of a medication or
9-56 treatment as ordered by a physician, podiatrist, or dentist;

9-57 (D) the supervision or teaching of nursing;

9-58 (E) the administration, supervision, and
9-59 evaluation of nursing practices, policies, and procedures;

9-60 (F) the requesting, receiving, signing for, and
9-61 distribution of prescription drug samples to patients at practices
9-62 at [sites in] which an advanced practice [a] registered nurse is
9-63 authorized to sign prescription drug orders as provided by
9-64 Subchapter B, Chapter 157;

9-65 (G) the performance of an act delegated by a
9-66 physician under Section 157.0512 [~~157.052, 157.053,~~] 157.054,
9-67 [~~157.0541, 157.0542,~~] 157.058, or 157.059; and

9-68 (H) the development of the nursing care plan.

9-69 SECTION 15. Section 301.005, Occupations Code, is amended

10-1 to read as follows:

10-2 Sec. 301.005. REFERENCE IN OTHER LAW. (a) A reference in
10-3 any other law to the former Board of Nurse Examiners means the Texas
10-4 Board of Nursing.

10-5 (b) A reference in any other law to an "advanced nurse
10-6 practitioner" or "advanced practice nurse" means an advanced
10-7 practice registered nurse.

10-8 SECTION 16. Section 301.152, Occupations Code, is amended
10-9 to read as follows:

10-10 Sec. 301.152. RULES REGARDING SPECIALIZED TRAINING. (a)
10-11 In this section, "advanced practice registered nurse" means a
10-12 registered nurse licensed ~~[approved]~~ by the board to practice as an
10-13 advanced practice registered nurse on the basis of completion of an
10-14 advanced educational program. The term includes a nurse
10-15 practitioner, nurse midwife, nurse anesthetist, and clinical nurse
10-16 specialist. The term is synonymous with "advanced nurse
10-17 practitioner" and "advanced practice nurse."

10-18 (b) The board shall adopt rules to:

10-19 (1) license a registered nurse as an advanced practice
10-20 registered nurse;

10-21 (2) establish:

10-22 (A) any specialized education or training,
10-23 including pharmacology, that an advanced practice ~~[a]~~ registered
10-24 nurse must have to prescribe or order a drug or device as delegated
10-25 by a physician ~~[carry out a prescription drug order]~~ under Section
10-26 157.0512 or 157.054 ~~[157.052]; [and]~~

10-27 (B) a system for approving an advanced practice
10-28 registered nurse to prescribe or order a drug or device as delegated
10-29 by a physician under Section 157.0512 or 157.054 on the receipt of
10-30 [assigning an identification number to a registered nurse who
10-31 provides the board with] evidence of completing the specialized
10-32 education and training requirement under Paragraph (A)
10-33 [Subdivision (1)(A)]; and

10-34 (C) a system for issuing a prescription
10-35 authorization number to an advanced practice registered nurse
10-36 approved under Paragraph (B) ~~[(2) approve a registered nurse as an~~
10-37 ~~advanced practice nurse]; and~~

10-38 (3) concurrently ~~[initially approve and biennially]~~
10-39 renew any license or approval granted to an advanced practice
10-40 registered nurse under this subsection and a license renewed by the
10-41 advanced practice registered nurse under Section 301.301 ~~[an~~
10-42 ~~advanced practice nurse's authority to carry out or sign a~~
10-43 ~~prescription drug order under Chapter 157].~~

10-44 (c) At a minimum, the rules adopted under Subsection (b)(2)
10-45 ~~[(b)(3)]~~ must:

10-46 (1) require completion of pharmacology and related
10-47 pathophysiology ~~[pathology]~~ education for initial approval; and

10-48 (2) require continuing education in clinical
10-49 pharmacology and related pathophysiology ~~[pathology]~~ in addition
10-50 to any continuing education otherwise required under Section
10-51 301.303~~[, and~~

10-52 ~~[(3) provide for the issuance of a prescription~~
10-53 ~~authorization number to an advanced practice nurse approved under~~
10-54 ~~this section].~~

10-55 (d) The signature of an advanced practice registered nurse
10-56 attesting to the provision of a legally authorized service by the
10-57 advanced practice registered nurse satisfies any documentation
10-58 requirement for that service established by a state agency.

10-59 SECTION 17. Subchapter D, Chapter 301, Occupations Code, is
10-60 amended by adding Section 301.168 to read as follows:

10-61 Sec. 301.168. DUTIES REGARDING PRESCRIPTIVE AUTHORITY
10-62 AGREEMENTS. The board shall in conjunction with the Texas Medical
10-63 Board and the Texas Physician Assistant Board perform the functions
10-64 and duties relating to prescriptive authority agreements assigned
10-65 to the board in Sections 157.0512 and 157.0513.

10-66 SECTION 18. Subdivisions (34) and (45), Section 551.003,
10-67 Occupations Code, are amended to read as follows:

10-68 (34) "Practitioner" means:

10-69 (A) a person licensed or registered to prescribe,

11-1 distribute, administer, or dispense a prescription drug or device
 11-2 in the course of professional practice in this state, including a
 11-3 physician, dentist, podiatrist, or veterinarian but excluding a
 11-4 person licensed under this subtitle;

11-5 (B) a person licensed by another state, Canada,
 11-6 or the United Mexican States in a health field in which, under the
 11-7 law of this state, a license holder in this state may legally
 11-8 prescribe a dangerous drug;

11-9 (C) a person practicing in another state and
 11-10 licensed by another state as a physician, dentist, veterinarian, or
 11-11 podiatrist, who has a current federal Drug Enforcement
 11-12 Administration registration number and who may legally prescribe a
 11-13 Schedule II, III, IV, or V controlled substance, as specified under
 11-14 Chapter 481, Health and Safety Code, in that other state; or

11-15 (D) an advanced practice registered nurse or
 11-16 physician assistant to whom a physician has delegated the authority
 11-17 to prescribe or order a drug or device [~~carry out or sign~~
 11-18 ~~prescription drug orders~~] under Section 157.0511, 157.0512
 11-19 [~~157.052, 157.053~~], or 157.054 [~~, 157.0541, or 157.0542~~].

11-20 (45) "Written protocol" means a physician's order,
 11-21 standing medical order, standing delegation order, or other order
 11-22 or protocol as defined by rule of the Texas Medical [~~State~~] Board
 11-23 [~~of Medical Examiners~~] under Subtitle B.

11-24 SECTION 19. Subsection (b), Section 671.001, Government
 11-25 Code, is amended to read as follows:

11-26 (b) The pilot program must provide for the following:

11-27 (1) a licensed advanced practice registered nurse as
 11-28 defined by Section 301.152, Occupations Code, or a licensed
 11-29 physician assistant as described by Chapter 204, Occupations Code,
 11-30 who is employed by the state or whose services are acquired by
 11-31 contract, who will be located at a state office complex;

11-32 (2) a licensed physician, who is employed by a state
 11-33 governmental entity for purposes other than the pilot program or
 11-34 whose services are acquired by contract, who will delegate to and
 11-35 supervise the advanced practice registered nurse or physician
 11-36 assistant under a prescriptive authority agreement under Chapter
 11-37 157 [~~perform all supervisory functions described by Section~~
 11-38 ~~157.052(e)~~], Occupations Code;

11-39 (3) appropriate office space and equipment for the
 11-40 advanced practice registered nurse or physician assistant to
 11-41 provide basic medical care to employees at the state office complex
 11-42 where the nurse or physician assistant is located; and

11-43 (4) professional liability insurance covering
 11-44 services provided by the advanced practice registered nurse or the
 11-45 physician assistant.

11-46 SECTION 20. Subdivision (39), Section 481.002, Health and
 11-47 Safety Code, is amended to read as follows:

11-48 (39) "Practitioner" means:

11-49 (A) a physician, dentist, veterinarian,
 11-50 podiatrist, scientific investigator, or other person licensed,
 11-51 registered, or otherwise permitted to distribute, dispense,
 11-52 analyze, conduct research with respect to, or administer a
 11-53 controlled substance in the course of professional practice or
 11-54 research in this state;

11-55 (B) a pharmacy, hospital, or other institution
 11-56 licensed, registered, or otherwise permitted to distribute,
 11-57 dispense, conduct research with respect to, or administer a
 11-58 controlled substance in the course of professional practice or
 11-59 research in this state;

11-60 (C) a person practicing in and licensed by
 11-61 another state as a physician, dentist, veterinarian, or podiatrist,
 11-62 having a current Federal Drug Enforcement Administration
 11-63 registration number, who may legally prescribe Schedule II, III,
 11-64 IV, or V controlled substances in that state; or

11-65 (D) an advanced practice registered nurse or
 11-66 physician assistant to whom a physician has delegated the authority
 11-67 to prescribe or order a drug or device [~~carry out or sign~~
 11-68 ~~prescription drug orders~~] under Section 157.0511, 157.0512
 11-69 [~~157.052, 157.053~~], or 157.054, [~~157.0541, or 157.0542~~]

12-1 Occupations Code.

12-2 SECTION 21. Subdivision (12), Section 483.001, Health and
12-3 Safety Code, is amended to read as follows:

12-4 (12) "Practitioner" means ~~[a person licensed]~~:

12-5 (A) a person licensed by the Texas ~~[State Board~~
12-6 ~~of] Medical Board [Examiners]~~, State Board of Dental Examiners,
12-7 Texas State Board of Podiatric Medical Examiners, Texas Optometry
12-8 Board, or State Board of Veterinary Medical Examiners to prescribe
12-9 and administer dangerous drugs;

12-10 (B) a person licensed by another state in a
12-11 health field in which, under the laws of this state, a licensee may
12-12 legally prescribe dangerous drugs;

12-13 (C) a person licensed in Canada or Mexico in a
12-14 health field in which, under the laws of this state, a licensee may
12-15 legally prescribe dangerous drugs; or

12-16 (D) an advanced practice registered nurse or
12-17 physician assistant to whom a physician has delegated the authority
12-18 to prescribe or order a drug or device ~~[carry out or sign~~
12-19 ~~prescription drug orders]~~ under Section 157.0511, 157.0512
12-20 ~~[157.052, 157.053], or 157.054, [157.0541, or 157.0542,]~~
12-21 Occupations Code.

12-22 SECTION 22. Sections 157.052, 157.053, 157.0541, and
12-23 157.0542, Occupations Code, are repealed.

12-24 SECTION 23. The changes in law made by this Act apply only
12-25 to a delegation of prescriptive authority by a physician to an
12-26 advanced practice registered nurse or physician assistant made or
12-27 amended on or after January 31, 2014. A delegation of prescriptive
12-28 authority made or amended before January 31, 2014, is governed by
12-29 the law in effect immediately before the effective date of this Act,
12-30 and the former law is continued in effect for that purpose.

12-31 SECTION 24. The calculation under Chapter 157, Occupations
12-32 Code, as amended by this Act, of the amount of time an advanced
12-33 practice registered nurse or physician assistant has practiced
12-34 under the delegated prescriptive authority of a physician under a
12-35 prescriptive authority agreement shall include the amount of time
12-36 the advanced practice registered nurse or physician assistant
12-37 practiced under the delegated prescriptive authority of that
12-38 physician before the effective date of this Act.

12-39 SECTION 25. Not later than December 31, 2013, the Texas
12-40 Medical Board, the Texas Board of Nursing, and the Texas Physician
12-41 Assistant Board shall adopt the rules necessary to implement the
12-42 changes in law made by this Act.

12-43 SECTION 26. This Act takes effect September 1, 2013.

12-44 * * * * *