SB406 passes out of Senate Health & Human Services Committee. On February 12, Senator Jane Nelson (R-Flower Mound) laid out the committee substitute (CS) for SB 406 before the Senate Committee on Health & Human Services at its public hearing held in the Senate Chamber. Nelson expressed her appreciation that CSSB 406 is an “agreed-to” bill and compared the negotiations to achieve that as similar to the “birth of a child.” Nelson noted that the negotiations between the groups representing doctors, advanced practice registered nurses (APRNs) and physician assistants (PAs) and her staff resulted in a bill that “maximizes the ability of highly trained medical professionals to collaborate in a way to increase access to quality health care while at the same time ensuring that patients are protected.”

Senator Nelson reviewed the highlights of CSSB 406 that:

- Eliminates current site-based requirements and replaces them with a streamlined prescriptive authority agreement;
- Establishes minimum standards for the prescriptive authority agreement that give practitioners the flexibility to determine the specifics of the agreement;
- Makes no changes in current law in the ability of practices serving medically underserved populations (MUPs) or in hospitals to limit the number of APRNs or PAs to whom a physician can delegate;
- Increases from four to seven the number of individuals to whom a physician may delegate prescriptive authority to in other practices;
- Improves the coordination between the Texas Medical Board, Texas Board of Nursing and the Texas Board of Physician Assistants;
  - Allows physicians to delegate the ordering or prescribing of Schedule II controlled substances to APRNs/PAs in hospitals and for patients in hospice care.

Public testimony on SB 406. Jean Gisler (RN, FNP) testified in support of CSSB 406 on behalf of the Texas Nurses Association, Texas Nurse Practitioners and CNAP. Ms. Gisler said that while the bill is “not everything we wanted, it goes a long way to improve the current, complicated site-based model followed for many years.”

Ms. Gisler noted that the number of primary care physicians in Texas has been in a steady decline for the past 10 years or so, and during the same time the number of APRNs has increased 138 percent. In 2011, certified nurse midwives, PAs and nurse practitioners rendered 40.6 percent of primary care, which was an increase of 27.1 percent since 2001. She went on to say that this bill will “improve access to care.”

Gary Floyd, a pediatrician from Fort Worth, testified on behalf of the Texas Medical Association, the Texas Association of Family Practitioners and the Texas Pediatric Society. Dr. Floyd testified that the changes proposed in CSSB 406 are a significant step forward to open up access to all parts of Texas that strengthens qualities and efficiencies in a team approach to medical care and replaces a myriad of site-based restrictions. Floyd stated it gives flexibility and responsibility for physicians, APRNs and PAs who work together to deliver quality patient care. He went on to say that all of the groups he represented were “fully in support” of CSSB 406.
Todd Pickard, a PA at the M.D. Anderson Cancer Center in Houston, testifying on behalf of the Texas Academy of Physician Assistants, told the Committee that his group also supported CSSB 406. Mr. Pickard said that the PAs were very excited about this bill as it is a road forward with less bureaucratic confusion so that medical teams can work together. He went on to say that the simplification of the site-based language is a “gift from heaven.”

**Senator’s questions.** Senator Charles Schwertner (R-Georgetown), an orthopedic surgeon, stated that while he agreed the current site-based restrictions are onerous in some cases, he asked a series of questions of Kathy Thomas, executive director of the Texas Board of Nursing (BON). Dr. Schwertner’s questions focused on the bill’s provisions relating to physicians delegating prescriptive authority to APRNs and PAs to prescribe Schedule II controlled substances and the knowledge and expertise of the BON’s members to craft rules to implement these provisions of CSSB 406. He asked Thomas about how many members of the BON board are APRNs and licensed to have prescriptive authority delegated to them. Ms. Thomas said that while there is only one APRN slot on the nursing board, there is an APRN advisory committee and they often contract with outside experts to consult on rulemaking. She said that the board will look carefully at the additional education and training necessary for APRNs to have prescriptive authority for Schedule IIs.

Dr. Schwertner also questioned the provision of the bill that allows delegation of prescriptive authority for Schedule IIs in hospitals. He asked questions trying to clarify if this delegation authority extended to hospital-based clinics. Ms. Thomas responded that it was her belief that this delegation authority was only for inpatient facilities and did not extend to out-patient clinics. Senator Nelson said it was not her intent to allow such delegation to out-patient clinics and clarification might be needed in the bill to address any ambiguity.

**On to the full Senate.** The bill passed out of the Senate Health & Human Services Committee on a 5 to 0 vote and was sent to the Senate’s Local & Uncontested Calendar. CNAP will alert people when CSSB 406 is scheduled for a vote by the Senate.

**CNAP Legislative Day.** Over 430 practitioners and advanced practice nursing students attended the CNAP 2013 Legislative Day in Austin on February 11. In addition to hearing Kathy Hutto, CNAP long-time lobbyist, review the arduous negotiations on CSSB 406, attendees heard from communications expert Melody Chatelle with Chatelle & Associates. Ms. Chatelle stressed that “relationships are the name of the game” when trying to get your message delivered to legislators and their staff. She also told people that “effective advocacy work is a long-term process” to get your message across to policymakers.

After the morning briefings, CNAP representatives made their way to the halls of the Capitol to meet with their elected officials and their key policy staff members. Over 140, out of 181, legislative offices were visited and given packets of information asking legislators to support SB 406 and its companion House Bill 1055 (Kolkhorst, R- Brenham). CNAP appreciates the efforts of all the people who took their time to come to Austin to make their voices heard on behalf of all APRNs.

**CNAP board members and representatives.** All of the CNAP board members and representatives of the organizations that make up the Coalition deserve a great big “Thank You” for all of the time and efforts they have spent in meetings and on conference calls giving feedback and direction to the ongoing
negotiations at the Capitol. These groups include: Consortium of Texas Certified Nurse Midwives; Greater Texas Chapter of the National Association of Pediatric Nurse Practitioners; Gulf Coast Gerontological Nurse Practitioners; Houston Area Chapter of the National Association of Pediatric Nurse Practitioners; Psychiatric Advanced Practice Nurse of Texas (Austin and Houston); Texas Association of Neonatal Nurse Practitioners; Texas Association of Nurse Anesthetists; Texas Clinical Nurse Specialists; and Texas Nurse Practitioners. Representatives of the Texas Nurses Association have also put in tireless hours and much effort during the negotiations with medicine and legislative staff.

**Disappointed about limits on Schedule IIs?** As Ms. Gisler stated in her testimony before the Senate Health & Human Services Committee, the bill is “not all we wanted” but it is a step forward. The organizations that make up CNAP are also disappointed that we were unable to get an agreement to allow physicians to delegate Schedule IIs to all APRNs, within their scope of practice. That being said, there are reasons to be positive about the changes proposed in these bills.

CNAP’s, TNP’s, TANA’s and TNA’s lobbyists have had to play the cards that have been dealt to them this session, which includes the fact that six members of the 83rd Texas Legislature are physicians who are very resistant to changing current statutes relating to delegated prescriptive authority to APRNs coupled with one of the most active medical associations in the country resisting any changes in current law. Additionally, there are some key legislators who are very concerned with the proliferation of “pill mills” in Texas and are reluctant to allow APRNs to prescribe Schedule IIs.

In these negotiations, medicine wanted to limit the delegation of Schedule IIs to one pilot project at MD Anderson. The fact that the filed bills include language that allows physicians to be able to delegate Schedule IIs in all hospitals and for all hospice patients is a huge advancement. Amongst long-time Capitol folks, there is an old adage that “it’s better to get half a loaf as opposed to no loaf at all.” If either SB 406 or HB 1055 is enacted and becomes law, it forms a good foundation to go after the other half of the loaf in subsequent sessions.

**March 6th – next Capitol visits.** There are more Capitol visits planned for Thursday, March 6th. Please e-mail Trish Conradt, CNAP Public Policy Director, at trish@cnaptexas.org if interested in visiting with your elected officials at the Capitol. Activities at the Capitol will be in high gear as members push to get their bills passed before mid-May deadlines start to kick-in and bills start dying at every turn. Your presence and voice are needed! Make plans now to come advocate for the passage of SB 406/HB 1055 in Austin.