

Consideration of Proposed Amendments to 22 Tex. Admin. Code §222.8, relating to *Authority to Order and Prescribe Controlled Substances* and §222.10, relating to *Enforcement*

Background: House Bill (HB) 2561, which became effective on September 1, 2017, requires all practitioners to access the Prescription Monitoring Program (PMP) prior to prescribing or dispensing opioids, benzodiazepines, barbiturates, or carisoprodol. The bill further authorizes, but does not require, practitioners to access the PMP prior to prescribing or dispensing any controlled substance. Further, the bill includes several statutory exemptions that, if applicable, would excuse a practitioner from the other requirements of the bill. The proposed rule, attached as Attachment "A", implements these statutory requirements and provides guidance to Board regulated practitioners who prescribe these medications.

Board Action: Move to approve the proposed amendments to 22 Tex. Admin. Code §222.8, relating to *Authority to Order and Prescribe Controlled Substances* and §222.10, relating to *Enforcement*, with authority for the General Counsel to make editorial changes as necessary to clarify rule and Board intent and to comply with the formatting requirements of the *Texas Register*. If no negative comments and no request for a public hearing are received, move to adopt the proposed amendments to 22 Tex. Admin. Code §222.8, relating to *Authority to Order and Prescribe Controlled Substances* and §222.10, relating to *Enforcement*, as proposed.

Attachment "A"

§222.8. Authority to Order and Prescribe Controlled Substances.

(a) APRNs with full licensure and a valid prescription authorization number are eligible to obtain authority to order and prescribe certain categories of controlled substances. The APRN must comply with all federal and state laws and regulations relating to the ordering and prescribing of controlled substances in Texas, including but not limited to, requirements set forth by ~~[the Texas Department of Public Safety and]~~ the United States Drug Enforcement Administration.

(b) – (c) (No change.)

(d) Prescription Monitoring Program (PMP).

(a) APRNs should access and review the prescription monitoring program (PMP) authorized by Chapter 481, Health and Safety Code, prior to prescribing any controlled substance for patients being treated for pain.

(b) APRNs must access and review the PMP before prescribing opioids, benzodiazepines, barbiturates, or carisoprodol unless:

(1) the patient has been diagnosed with cancer or the patient is receiving hospice care; and

(2) the APRN clearly notes in the prescription record that the patient was diagnosed with cancer or is receiving hospice care, as applicable.

(c) Documentation that the review of the PMP occurred and rationale for prescribing a controlled substance must be included in the medical record.

§222.10. Enforcement.

(a) Any APRN who violates the sections of this rule or orders or prescribes in a manner that is not consistent with the standard of care shall be subject to removal of the authority to order or prescribe under this section and disciplinary action by the Board. Behaviors associated with ordering and prescribing medications for which the Board may impose disciplinary action include, but are not limited to:

(1) – (3) (No change.)

(4) selling, purchasing, trading, or offering to sell, purchase, or trade a prescription drug sample; ~~and~~

(5) delegation of authority to any other person to order, prescribe, or dispense of an order or prescription for a drug or device; and ~~and~~;

(6) failure to access and review the prescription monitoring program (PMP) authorized by Chapter 481, Health and Safety Code, before prescribing opioids, benzodiazepines, barbiturates, or carisoprodol, unless a statutory exemption contained in that chapter has been documented. If an APRN has made a good faith effort to comply with the requirement and is unable to do so because of circumstances beyond the APRN's control, documentation of this effort shall be made in the medical record.

(b) – (d) (No change.)

(e) The Board shall report to ~~[the Texas Department of Public Safety and]~~ the United States Drug Enforcement Administration any of the following:

(1) – (2) (No change.)

(f) – (h) (No change.)