Prescriptive Authority Update

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Objectives

Discuss the laws and regulations related to physician delegation of prescriptive authority
Differentiate between a prescriptive authority agreement and a facility based protocol
Discuss the requirements for prescribing dangerous drugs and controlled substances

Definition of APRN

...“advanced practice registered nurse” means a registered nurse licensed by the board to practice as an advanced practice registered nurse on the basis of completion of an advanced educational program. The term includes a nurse practitioner, nurse midwife, nurse anesthetist, and clinical nurse specialist. The term is synonymous with “advanced nurse practitioner” and “advanced practice nurse.”
Definition of Professional Nursing

“Professional nursing” means the performance of an act that requires substantial specialized judgment and skill, the proper performance of which is based on knowledge and application of the principles of biological, physical, and social science as acquired by a completed course in an approved school of professional nursing. The term does not include acts of medical diagnosis or the prescription of therapeutic or corrective measures.

Why Physician Delegation?

"Practicing medicine" means the diagnosis, treatment, or offer to treat a mental or physical disease or disorder or a physical deformity or injury by any system or method, or the attempt to effect cures of those conditions.

Medical Practice Act §151.002(13)
A physician may delegate to a qualified and properly trained person acting under the physician’s supervision any medical act that a reasonable and prudent physician would find within the scope of sound medical judgment to delegate if, in the opinion of the delegating physician:

1. the act:
   - (A) can be properly and safely performed by the person to whom the medical act is delegated;
   - (B) is performed in its customary manner; and
   - (C) is not in violation of any other statute; and
2. the person to whom the delegation is made does not represent to the public that the person is authorized to practice medicine.

Medical Practice Act §157.001(a)

Prescriptive Delegation

A physician’s authority to delegate the prescribing or ordering of a drug or device under this subchapter is limited to:

1. nonprescription drugs;
2. dangerous drugs; and
3. controlled substances to the extent provided by Subsections (b) and (b-1).

Medical Practice Act §157.0511(a)
Minimum Standards
APRNsmayorderorprescribelyotdhosedrugsordevicesthatare:
(A)authorizedbyaprescriptiveauthorityagreementorfacility-basedprotocol
(B)orderedorprescribedforpatientpopulationswithinthetheaccepedscopeofprofessionallpracticeforthepARN’slicense. . .
Rule 222.4(a)

Prescription Essential Elements
• Patient’s name and address;
• Name, strength, and quantity of the drug to be dispensed;
• Directions to the patient;
• Intended use of the drug, if appropriate;
• Name, address, and telephone number of the delegating physician
Rule 222.4(b)
Medical Practice Act §157.056

Essential Elements cont.
• Address and telephone number of the practice site
• Date of issuance
• Number of refills permitted
• Name, prescription authorization number, and original signature of the APRN
• US DEA numbers of the APRN and the delegating physician
Rule 222.4(b)
Medical Practice Act §157.056
Delegation Mechanisms

- Facility Based Protocol
- Prescriptive Authority Agreement

Facility Based Protocol

- Written authorization to provide medical aspects of patient care that are agreed upon and signed by the APRN and the physician
- Should be jointly developed by the APRN and the physician
-Reviewed and signed at least annually by both the APRN and the physician

Rule 222.6
Medical Practice Act §157.054

Facility Based Protocol

- Defined to promote the exercise of professional judgment by the APRN commensurate with his/her education and experience.
- Need not describe the exact steps that the APRN must take with respect to each specific condition, disease, or symptom
- State types or categories of drugs or devices that may be ordered or prescribed

Rule 222.6
Medical Practice Act §157.055
**Delegating Physician—Hospital Based**

- Medical director or chief of medical staff of the facility in which the APRN practices;
- Chair of the facility’s credentialing committee;
- Department chair of a facility department in which the APRN practices; or
- Physician who consents to the request of the medical director or chief of medical staff to delegate the prescribing or ordering of a drug or device at the facility in which the APRN practices.

*Medical Practice Act §157.054*

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**Delegating Physician—Hospital Based**

- May not order or prescribe for patients of physicians who have not given their consent
- No maximum number of APRNs to whom one physician may delegate but limited to one hospital facility
- Can still have prescriptive authority agreements in other practice settings.

*Medical Practice Act §157.054*

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**Delegating Physician—LTC**

- Delegation by the medical director
- Seven FTE APRNs and PAs
- No more than two long term care facilities

*Medical Practice Act §154.054*
Delegation to CRNAs

- Licensed hospital or ASC
- Drugs or devices for anesthesia or anesthesia-related services
- Facility policy or medical staff bylaws
- Physician's order
  - Not required to be specific

Rule 221.15
Medical Practice Act §157.058

Outpatient Anesthesia by CRNAs

- Physician delegation required
- Physician supplies drugs and devices
- Physician order
- No prescriptive authority
- Registration with BON

Rule 221.36

Prescriptive Authority Agreement

- Mechanism for delegation of ordering or prescribing drugs and devices [Medical Practice Act, §157.051(14)].
- Active license in good standing
- Not prohibited from entering a prescriptive authority agreement
- Disclose prior licensure discipline

Rule 222.5
Medical Practice Act §157.0512
Minimum Elements of a Prescriptive Authority Agreement

- Written, signed and dated by all parties
- Name, address and professional licensure numbers of all parties
- Nature of the practice, practice locations, or practice settings

Rule 222.5
Medical Practice Act §157.0512

Prescriptive Authority Agreement Must Include:

- Categories of drugs that may or may not be ordered or prescribed
- General plan for consultation and referral
- Plan for patient emergencies
- Communication process

Rule 222.5
Medical Practice Act §157.0512

Alternate Physicians

- Provide appropriate delegation on a temporary basis
- May designate more than one alternate
- Alternates may participate in quality assurance and improvement meetings

Rule 222.5
Medical Practice Act §157.0512
Quality Assurance and Improvement Plan

- Chart reviews
- Number or percentage not specified in law
- Periodic face to face meetings

Rule 222.5
Medical Practice Act §157.0512

Face to Face Meetings

- Share information
  - Patient treatment and care
  - Changes in patient care plans
  - Issues related to referrals
  - Discuss patient care improvement
  - Documented

Rule 222.5
Medical Practice Act §157.0512

Monthly Face to Face Meetings

- Depends on experience level
  - 0 to 5 years experience
    - Monthly for the first 3 years
  - More than 5 years experience
    - Monthly for the first 12 months
    - Must have been in a supervised prescriptive authority agreement for 5 of the last 7 years

Rule 222.5
Medical Practice Act §157.0512
And after that. . .

- Face to face meetings at least quarterly
- Monthly meetings between the quarterly meetings by means of remote electronic communication system, including video conferencing technology or the internet

General Provisions

- Promote the exercise of professional judgment based on various factors
- Reviewed and signed at least annually
- Maintain a copy until at least the second anniversary of the date the agreement is terminated
- Notify other parties of investigation and discipline

Physician to APRN Ratio

- One physician to 7 FTE APRNs/PAs
- Ratio does not apply in a practice serving a medically underserved population
- Ratio does not apply in a hospital facility-based practice
What Can APRNs Prescribe?
- Nonprescription drugs
- Dangerous Drugs
- Controlled Substances
- Durable Medical Equipment

Rules 222.7 and 222.8
Medical Practice Act §157.0511

Dangerous Drugs
- Texas Health and Safety Code §483
- Legend drugs
- Prescriptive authority agreement or facility-based protocol
- Register delegation with TMB

www.tmb.state.tx.us
Rule 222.7
Medical Practice Act §157.0511

APRNs who only prescribe categories of dangerous drugs are not required to register with the Texas Department of Public Safety or US Drug Enforcement Administration
Controlled Substances

§ Code of Federal Regulations §1308 and Texas Health and Safety Code §481

Prescriptive authority agreement or facility-based protocol

Register delegation with TMB

Controlled Substance Registrations

US DEA

www.deadiversion.usdoj.gov/drugreg

Texas Department of Public Safety

www.txdps.state.tx.us/rsd/ControlledSubstances

New Law Effective September 1, 2016

DPS registration no longer required to obtain a DEA number

Prescription Monitoring Program (Prescription Access in Texas – PAT) moves to Texas State Board of Pharmacy

SB 195, 84th Legislative Session
General Requirements for Prescribing Controlled Substances

- May not exceed a 90 day supply
- May not refill beyond 90 days without consultation and documentation
- No prescriptions for a child less than two years of age without consultation and delegation

Schedule II Limitations

- Part of plan of care for treatment of a patient certified as terminally ill (written) and receiving hospice care from a qualified hospice provider
- Hospital facility based practice for:
  - Patients admitted with intended length of stay of at least 24 hours
  - Patients receiving services in ED

Pain Management
Rule 228

- Goal is to therapeutically treat pain in relation to overall health, including physical function, psychological, social and work-related factors based on careful and complete assessment
- Therapeutic prescribing of medications that are pharmacologically appropriate and safe
- Clear and complete documentation
- Current and prevailing standard of care

Patient Evaluation

- Perform and document physical assessment
- Current and past treatments—obtain records!
- Underlying and co-existing conditions
- Functional assessment
- Risk assessment—especially SUDS and mental health conditions

Treatment Plan and Outcomes

- In writing in the medical record
- Road map for where the patient is and where treatment is intended to take the patient
Pain Management Clinics

- Prescriptive authority agreement
- 33% chart review
- Physician on site 33% of the time
- Clinic certified by TMB
- May not own or operate a pain management clinic

[Rule 228.1(i)
Medical Practice Act §168]

Sharing What We Learned

- Document, document, document
- Complete assessments
- Consultation and referral
- Therapeutic benefit of medications and treatments

Questions?