

Legislative & Regulatory Roadmap 2020: What You Need to Know

Harris County Academy of Family Physicians

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3/1/20 Rule Mandates Querying The Controlled Substance Database

- You must access the database before “prescribing” any opioids, benzos, barbiturates, or carisoprodol.
- This includes acute pain, short-term prescriptions.
- Exception for cancer or hospice.
- How could enforcement occur?

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Pharmacy Board Controlled Substance Database

- Texas.pmpAware.net
- Also get several assistants signed up as “unlicensed delegates”
- Query it also for suspicious patients.

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Prescribing Controlled Substances to Family or Friends

Do not prescribe controlled substances
for yourself, family, or close personal
relationships.

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New Law: Opioids For Acute Pain

- 10 day limit (and no “refills”) on Rx for
opioids for acute pain as of 9/1/19

[Health & Safety Code Sec. 481.07636(b)(1)]

- Exceptions to 10 day limit:

Cancer care, hospice, end-of-life,
or palliative care [Health & Safety Code Sec. 481.07636(a)]

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Acute Pain Prescription “Renewal”

- Prescription “renewals” are allowed but need to be in person (TMB opinion)
- TMB: “However, the patient may see the practitioner *in a follow up appointment* and receive another opioid prescription for up to 10 days. The law does not limit how many times this may occur.”

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New Controlled Substance Law

- E-prescribing will be mandatory on Jan. 1, 2021 for all controlled substances

- [Health & Safety Code Sec. 481.074(b) and 481.0755(a)(11)]

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Medical Board's Statement About New CME Requirements

New Opioid CME Requirements

During the 86th legislative session, in an effort to combat the opioid crisis in Texas, there were multiple bills passed requiring physicians, physician assistants and other licensees to complete certain specific opioid related continuing medical education. These new CME requirements related to opioids will be part of the Opioid Workgroup being formed by TMB to address the on-going public health crisis in a comprehensive, multi-faceted approach. **Please note the new CME requirements are NOT required on 9/1/2019.**

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CME Required Of All Physicians

- All physicians who hold a license as of 1/1/21 need 2 hrs of CME in each of 2 licensing cycles in safe and effective pain management relating to prescription of opioids and other controlled substances, including standard of care, identifying drug-seeking, and effective communication to patients about these drugs.

[HB 2454; Tex Occ Code 156.055(g)]

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New CME Law

If you prescribe controlled substances, you need two hours of CME in prescribing and monitoring controlled substances. [Health & Safety Code Sec. 481.07635(a)]

If you prescribe opioids, you need one hour annually of CME in best practices, alternative pain management options, and multi-modal approaches to pain management. [HB 3285; Health & Safety Code Sec. 481.0764(f)]

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Mandatory CME on Human Trafficking Prevention Training

- CME requirement applies to a person “who holds a license, certificate, permit, or other authorization to engage in a health care profession”, and who provides direct patient care.
- Techs? MA's? PT's? Sonographers?
Other staff?

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CME on Human Trafficking Prevention Training

- HHS will post a CME list on its website and it will get ethics credit.
- Compliance deadlines:
 - First license renewal after 9/1/20 for physicians and nurses
 - HHS will assign a deadline for everyone else

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Volunteer Disaster Services

- Immunity from liability (unless reckless, intentional, willful, wanton).
- You need not be affiliated with a charity.
- While providing free care within your scope of practice following a disaster (you are allowed to be paid expenses).
- Applies to physicians, extenders, nurses, etc. [Civ Prac & Rem Code Sec. 79.0031]

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New Law On Lab Referral Fees

- “whoever, with respect to services covered by a health benefit program... knowingly and willfully (1) solicits or receives any remuneration ... directly or indirectly, overtly or covertly, in cash or in kind, in return for referring a patient ... to a recovery home, clinical treatment facility, or laboratory ... shall be fined not more than \$200,000, imprisoned not more than 10 years, or both, for each occurrence”.

18 U.S.C. § 220(a).

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Texas Law On Referral Fees

- “A physician commits an offense if the physician employs or agrees to employ, pays or promises to pay, or rewards or promises to reward any person, firm, association, partnership, or corporation for securing or soliciting a patient.”
- Refer-A-Friend programs

Tex. Occ. Code 165.155

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Leaving Your Medical Practice

- New Rule 165.5 by TMB about how to notify patients of your departure.
- No notice required if you only provided care in a hospital.
- Email is now allowed -- Get your patients' permission to email them about this.
- Group practice must give the departing physician access to patient addresses.

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Telemedicine Law

A health professional providing a health care service or procedure as a telemedicine medical service is subject to the same standard of care that would apply to the provision of the same health care service in an in-person setting.

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Supervising Midlevels

- Prescriptive Authority Agreements
- Written protocols
- Nametags on all care providers
- Scope of practice of Nurse Practitioners

- **PAA QA Plan:** *Monthly QA meetings will be held between physician and Nurse Practitioner for discussion of medical quality issues identified by either party. Issues identified from chart review by physician will be addressed. Follow-up on issues identified and addressed at recent prior meetings will be conducted. Physician will monitor prescribing patterns, referral and consultation patterns, whether any trends in ordered tests or labwork need to be addressed or adjusted, and whether any improvements in NP's interactions with patients, peers, or staff can be made. NP will be encouraged to proactively raise issues/concerns in an atmosphere of openness and collegiality in an effort to put each patient's health and safety as our top priority.*

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- Tmb.state.tx.us (or Google: tmb)
- On phone, slide down 3" to red screen
- On computer, on the left side of the home page, see "Join Our E-mail List"
- Do it again and insert the email address for each physician in the group

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Insurance Coverage For TMB And Other Complaints

- Immediately notify insurance carrier of the complaint or investigation.
- Other types of government enforcement may be covered too (IRS, Stark, peer review, employment, cyber, etc.).
- Increase your policy limits for TMB complaints

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Questions?

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