

Texas Medical Board

Rule Updates

January 2025

The Texas Medical Board approved the following rules at its December 12, 2024, Board meeting. These rules were published on January 10, 2025, and are now in effect. Below is a detailed summary of the rules and TxANA's efforts to oppose these changes.

This situation highlights the challenges that can arise when one profession has regulatory authority over another. We remain committed to advocating for legislative changes that eliminate unnecessary delegation requirements such as those recently imposed by the Texas Medical Board, by enabling CRNAs to practice to the full extent of their education and training through the granting of full practice authority.

We encourage members to report any direct or indirect impact these rules may have on their practice.

§173.2. STANDARDS FOR ANESTHESIA SERVICES

Impact Overview:

§173.2. Standards for Anesthesia Services. This rule would require physicians to “comply with delegation and supervision laws under Chapter 157 of the Act, including §157.058, regarding CRNAs.”

TxANA Comments to TMB:

This rule would require physicians to “comply with delegation and supervision laws under Chapter 157 of the Act, including §157.058, regarding CRNAs.” This is yet another attempt by the TMB to impose supervision requirements on CRNAs, when the question has been answered definitively that state law does not require supervision. Tex. Att’y Gen. Op. No. JC-0117 (1999). Further, it would expand the applicability of the outpatient anesthesia rules from “anesthesia services that are administered within two hours before an outpatient procedure,” to all anesthesia services, as well as encompass new types of procedures such as the administration of Ketamine. The result of these changes would be to require an on-site physician when any medication is administered, even if the delegation is through a Prescriptive Authority Agreement. This is blatant anticompetitive activity, and it has an almost identical fact pattern to North Carolina State Board of Dental Examiners v. FTC, which exposed regulatory boards like this one to liability when their actions constitute a restraint of trade and unfair competition.

TMB Response:

The rules do not change to the state law requirements for physicians with respect to delegation in an office-based anesthesia (OBA) practice or CRNA scope of practice in an OBA setting. The duties and scope of a CRNA to administer an anesthesia service applies in the same manner in any setting and the timing of such services which depend on the variable factors does not change those responsibilities. The new rules under Chapter 173 represent no change from how the repealed rules governing OBA applied to the permitted scope of a CRNA in an OBA setting. But nowhere does this rule say anything to limit CRNA and fully comports with §157.058 of the Occupations Code.

Next Steps:

Inform [TxANA here](#) if this rule impacts or deters you from practicing.



§164.3. PROHIBITED ACTS OR OMISSIONS IN ADVERTISING

Impact Overview:

§164.3. Prohibited Acts or Omissions in Advertising. This proposal would require physicians to disclose in their advertising, “supervision of, or delegation to non-physicians at a location that is not the physician’s primary practice location.”

TxANA Comments to TMB:

This proposal would require physicians to disclose in their advertising, “supervision of, or delegation to non-physicians at a location that is not the physician’s primary practice location.” This is an egregious overreach intended to discourage physicians from delegating to advanced practice providers, like CRNAs.

TMB Response:

The Board declines to make changes in response to this comment. The rules as written are intended to increase transparency for patients to ensure they know who is delegating to a non-physician that is seeing that patient.

Next Steps:

Inform [TxANA here](#) if this rule impacts or deters you from practicing.



§169.2. GENERAL RESPONSIBILITIES OF DELEGATING PHYSICIAN

Impact Overview:

§169.2. General Responsibilities of Delegating Physician. This proposal would require written protocols and orders to include “a description of the specific instructions, orders, protocols, or procedures to be followed.”

TxANA Comments to TMB:

This proposal would require written protocols and orders to include “a description of the specific instructions, orders, protocols, or procedures to be followed.” This is a blatant violation of state law, which says orders and protocols are “not required to describe the exact steps not required to describe the exact steps that an advanced practice registered nurse or a physician assistant must take with respect to each specific condition, disease, or symptom.” While the rule also states that a more specific rule would control over this general rule, there is not a more specific rule that details protocols and orders for APRNs.

TMB Response:

The Board declines to make changes in response to this comment. The rule does not conflict with state law in any manner. The rule ensures the content of the issued orders and protocols are clear enough to allow use of professional judgment and training of the person delegated to, but it is not unfettered judgment. The statute states the protocol is “not required to describe exact steps,” but that does not preclude a level of specificity a physician believes is appropriate based on the training, knowledge, and experience of a delegate. The text of the rule itself recognizes the inherent flexibility, where it states: Delegation must be through written protocols or prescriptive authority agreements depending on the type of delegate and the medical acts being delegated. An order or protocol can and should describe steps in some fashion. Further the comment ignores that physicians may delegate to other practitioners and not just advanced registered nurse practitioners (APRNs) and physician assistants (PAs).

Next Steps:

Inform [TxANA here](#) if this rule impacts or deters you from practicing.



§169.27. PHYSICIAN RESPONSIBILITIES RELATED TO WRITTEN ORDER

Impact Overview:

§169.27. Physician Responsibilities Related to Written Order. This section would require physicians to include in their written orders “a description of appropriate care.”

TxANA Comments to TMB:

This section would require physicians to include in their written orders “a description of appropriate care.” This is yet another violation of state law, which says a physician order to a CRNA “is not required to specify a drug, dosage, or administration technique,” and that the law should be “liberally construed.” Tex. Occ. Code Sec. 157.058.

TMB Response:

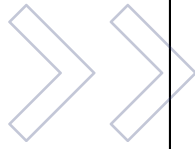
The Board declines to make changes in response to this comment. This subchapter is for "other delegated acts" related to business models being utilized now and that might develop. But it is not related to the providing of anesthesia by CRNAs, which is specifically addressed in §157.058 of the Occupations Code. This rule is directed specifically at delegation and the role of a delegating physician at facilities other than medical practices that often times do not have trained medical professionals performing certain delegated tasks, but the delegating physician and delegates are still required to meet the standards of Chapter 157 of the Occupations Code when performing delegated acts. Even if construed to be applicable to all delegates, the standards for CRNAs are unchanged. The purpose of delegation is to provide guidance on appropriate care, which is flexible and is "liberally construed" depending on training, knowledge, and experience as well as services being provided at these facilities. Nowhere does this rule say anything about exact doses, drugs, etc. because in these settings the CRNA would not be performing anesthesia services, but rather would be acting in their more general capacity as an APRN.

Next Steps:

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§177.2. MANDATORY COMPLAINT NOTIFICATION



Impact Overview:

§177.2. Mandatory Complaint Notification. This would require physicians to post public notifications on how to file complaints with the board at “any location where physician supervision or delegation is required.”

TxANA Comments to TMB:

This would require physicians to post public notifications on how to file complaints with the board at “any location where physician supervision or delegation is required.” This proposal is intended to limit CRNA practice by discouraging physicians from delegating, and it is a major overreach into practices that are owned and run by a CRNA.

TMB Response:

The Board declines to make any changes in response to this comment. The requirement for posting notices of how to file a complaint concerning a physician with TMB is statutory and has been in place for over a decade. The rule simply recognizes that medical services can be provided at a number of locations/facilities other than a physicians' office. No matter the location, these are still medical acts, and patients need to be informed as to who delegated the act to the provider and where to complain if issues arise. This is intended to maintain patients' protection, patients' right to an informed decision, and transparency. The new rule does not change or alter physician delegation in any manner.

Next Steps:

Inform [TxANA here](#) if this rule impacts or deters you from practicing.