

**Consideration of Proposed Amendments to 22 Tex. Admin. Code § 221.14, Nurse-Midwives Providing Controlled Substances**

**Background:** As required by Texas Government Code §2001.039, the Texas Board of Nursing (Board) filed its notice of intention to review and consider for re-adoption, re-adoption with amendments, or repeal, Chapters 213, 216, and 221, contained in Title 22, Part 11, of the Texas Administrative Code, pursuant to the 2019 rule review plan adopted by the Board at its July 2018 meeting. The notice was posted in the December 11, 2020 issue of the *Texas Register* (45 TexReg 8885). Pursuant to the Rule Review, Staff is recommending amendments to §221.14 for consistency with Tex. Occ. Code § 157.059, the statute which governs the *Delegation of Certain Obstetrical Services*.

Staff's recommended amendments can be found in Attachment "A." The amendments update the rule to clarify that the statutory authority of a physician to delegate the supplying of controlled substances, as described in §221.14, is limited to seven nurse-midwives or their full-time equivalents and the designated facility at which the nurse-midwife provides care. Additionally, the rule amendments clarify that a prescriptive authority agreement is an additional avenue for delegation and that the delegation may not include the issuance of an electronic prescription.

**Board Action:** Move to approve the proposed amendments to 22 Texas Administrative Code §221.14, pertaining to *Nurse-Midwives Providing Controlled Substances*, as set out in Attachment "A", 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 Texas Administrative Code §221.14, pertaining to *Nurse-Midwives Providing Controlled Substances*, as proposed.

§221.14, Nurse-Midwives Providing Controlled Substances

(a) In this section "provide" means to supply, for a term not to exceed 48 hours, one or more unit doses of a controlled substance for the immediate needs of a patient;

(b) An advanced practice registered nurse recognized by the Board [~~board~~] as a nurse-midwife may provide one or more unit doses of a controlled substance during intra-partum or immediate post-partum care subject to the following conditions:

(1) Physician delegation of authority to provide controlled substances must be made through a physician's order, medical order, standing delegation order, prescriptive authority agreement, or protocol that requires adequate and documented availability for access to medical care. Delegation may not include the use of a prescription sticker or the use or issuance of an official prescription form or the authority to issue an electronic prescription under §481.075, Health and Safety Code;

(2) The physician's orders, medical orders, standing delegation orders, prescriptive authority agreements, or protocols [~~The nurse-midwife's protocols or other orders~~] must require the reporting of or monitoring of each patient's progress, including complications of pregnancy and delivery and the administration and provision of controlled substances by the nurse-midwife to the patient;

(3) delegation is limited to seven [~~three full-time equivalent~~] nurse-midwives or their full time equivalents and [~~at~~] the designated facility at which the [~~where~~] nurse-midwife provides care [~~practices~~]; and

(4) the controlled substance must be supplied in a suitable container that is labeled in compliance with the applicable drug laws and must include:

- (A) the patient's name and address;
- (B) the drug to be provided;
- (C) the name, address, and telephone number of the physician;
- (D) the name, address, and telephone number of the nurse-midwife; and
- (E) the date.