

August 28, 2019

Sherif Zaafran, MD  
Chair  
Texas Medical Board  
P.O. Box 2018  
Austin, Texas 78768-2018

**Re: TMB Rules for Opioid CME**

Dear Dr. Zaafran:

I am writing on behalf of the Texas Orthopaedic Association (TOA) to express our great concern regarding the conflicting continuing medical education (CME) requirements found in three different bills passed by the 86<sup>th</sup> Texas Legislature and the confusion that these bills have created. TOA is a voluntary organization of Texas orthopaedic surgeons that was founded in 1936 to ensure outstanding musculoskeletal care for Texas patients. Approximately 1,400 Texas orthopaedic surgeons are TOA members today.

**TOA's Support for the CME Requirement**

TOA believes that education related to the prescription of opioids is important. As a result, TOA worked with lawmakers on several of the bills to develop the CME requirement. TOA was pleased that lawmakers incorporated several important considerations:

- To ensure that the opioid CME could fulfill the annual ethics hour.
- To place a sunset on the opioid requirement. This is due to the fact that the education may become redundant over several years, which could take away from other valuable clinical education.

**Legislative Intent Is Critical**

Instead of working together to create an omnibus bill related to opioids, the 86<sup>th</sup> Legislature chose to take a “shotgun approach” by passing multiple bills related to opioids. As a result, we now have three different laws containing different verbiage related to opioid education for physicians and other prescribers. While it is highly likely that the bills’ sponsors intended to address the same concepts, a literal interpretation of the three bills could result in three different requirements simply due to different word choice that is found in each bill. Instead of simply completing one or two hours of CME in opioid prescribing each year, physicians could be faced with many more hours of opioid prescribing education each year, much of which would be redundant and take away from other valuable clinical topics.

Tens of thousands of Texas physicians and other prescribers are currently sitting in limbo as they wait to see what their CME requirement for 2020 holds. I strongly urge the Texas Medical Board (TMB) to seek legislative intent from Reps. Four Price, John Zerwas, and JD Sheffield as soon as possible to determine whether they were seeking the same opioid education requirement in HB 2454, HB 2174, and HB 3285:

- HB 2454’s education requirement requires “reasonable standards of care, identification of drug-seeking behavior in patients, and effectively communicating with patients regarding the prescription of an opioid or other controlled substance.”

- HB 3285’s education requirement requires covering “best practices, alternative treatment options, and multi-modal approaches to pain management that may include physical therapy, psychotherapy, and other treatments.”
- HB 2174’s education requirement requires CME “related to approved procedures of prescribing and monitoring controlled substances” that is approved by regulatory bodies.

In addition, as written, the number of hours required for each licensing period are confusing and will require clarification from the TMB. It is critical for the TMB to clearly spell out what is required each year and to provide clear examples of what a physician should consider completing each year in order to be in compliance with the laws.

### **Guidance This Fall Is Critical**

Many physicians are in the process of planning their 2020 schedules, and this includes their continuing education for 2020. Many orthopaedic surgeons acquire their CME at national conferences, which may not include the Texas-based opioid CME requirements. As a result, orthopaedic surgeons will have to begin searching for local avenues, such as state medical societies, to seek approved opioid CME as soon as possible.

In addition, medical societies are planning their conferences for 2020. TOA’s 2020 annual conference is February 7-8, and this will be the only opportunity for many orthopaedic surgeons to have in-person opioid education training in 2020. Therefore, it is critical for the TMB to provide guidance related to the CME as soon as possible so that TOA and other organizations can begin creating the content.

### **TMB’s Opioid Work Group**

TOA applauds the TMB’s decision to form an opioid work group, and TOA asks to have a seat at the table.

### **TMB’s Educational Efforts**

TOA believes that the TMB’s monthly newsletters are useful education tools that feature wide readership throughout the physician community. Therefore, TOA encourages the TMB to dedicate a newsletter to looking at opioid recommendations made by various medical specialty societies.

For example, the American Academy of Orthopaedic Surgeons (AAOS) currently features the AAOS pain relief toolkit, which contains strategies related to opioids. In addition, AAOS will be re-launching the toolkit in 2020 in a partnership with the American Society of Anesthesiologists (ASA). TOA believes that it is important to get this type of information out to physicians in as many publications as possible, and the TMB’s monthly newsletters would be a natural fit.

Thank you in advance for considering a quick solution to the conflicting opioid CME requirements that have been created by these three bills. With some conferences being held in the first quarter of 2020, it is imperative to issue these regulations as soon as possible so that physicians and medical societies can begin planning their CME for 2020.

Sincerely,



Adam Bruggeman, MD  
President, Texas Orthopaedic Association