

**Proposed Adoption of New 22 Tex. Admin. Code Chapter 228, Pertaining to *Pain Management*, Written Comments Received, and Board Responses to Comments**

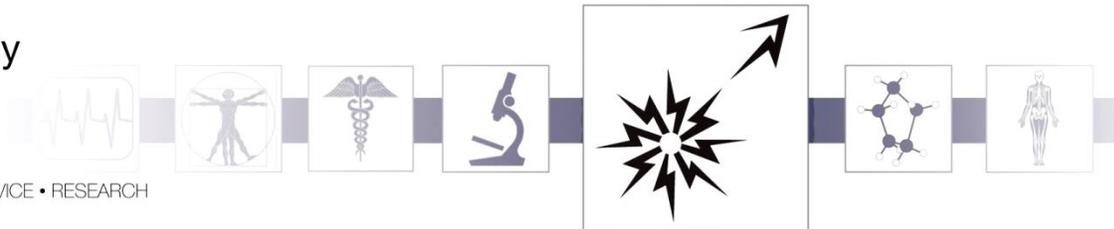
**Background:** Proposed new Chapter 228 was approved by the Board at its October 2013 meeting for submission to the *Texas Register* for public comment. The proposed new chapter was published in the *Texas Register* on December 6, 2013, and the comment period ended on January 6, 2014.

The Board received two written comments on the proposal. A copy of the written comments received are attached as Attachment "A". A summary of the written comments and Staff's proposed responses to the comments are attached as Attachment "B".

**Board Action:** Move to adopt new 22 Tex. Admin. Code Chapter 228, pertaining to *Pain Management*, as proposed. Further, authorize Staff to publish the summary and response to comments, attached hereto as Attachment "B".

# Texas Pain Society

PATIENT CARE • EDUCATION • SERVICE • RESEARCH



January 6, 2014

James W. Johnston  
General Counsel  
Texas Board of Nursing  
333 Guadalupe, Suite 3-460  
Austin, Texas 78701

Email: [dusty.johnston@bon.texas.gov](mailto:dusty.johnston@bon.texas.gov)

Re: Comments Regarding Texas Board of Nursing Chapter 228: Pain Management Rules

Dear Mr. Johnston,

We appreciate the opportunity to comment on the above mentioned rules. The Texas Pain Society (TPS) is a nonprofit organization of over 350 pain practitioners that are involved in acute and chronic pain management of patients in Texas. Our mission is to improve the quality of life of Texans who suffer from pain.

TPS would like to thank the Board for the ability to participate in the stakeholder process during the creation of these rules. It is our goal to provide consistent and timely guidance for all health care providers in the state of Texas to deliver quality pain management care to patients in Texas.

We are supportive of the overall rules posted, and would not suggest any changes at this time.

As the rules are implemented and used in daily practice, we anticipate the need to go back and review the language and fine tune any areas that need improvement. We look forward to working with you on these issues in the future.

We appreciate the opportunity to comment on the proposed rules and we are available for further comments or any questions you may have.

Sincerely,

A handwritten signature in black ink that reads "Graves Owen MD".

Graves Owen, MD  
President, Texas Pain Society  
On behalf of the entire Board of Directors

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PO Box 201363 • Austin, TX 78720 • Ph 512.535.0010 • Fax 866.235.2557 • [www.texaspain.org](http://www.texaspain.org)

The mission of the TPS is to be the organization of pain medicine practitioners that represents the interests of patients, the public, physicians and others involved in the care of Texas who suffer from pain.



## TEXAS SOCIETY OF ANESTHESIOLOGISTS

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January 6, 2014

James W. Johnston  
General Counsel  
Texas Board of Nursing  
333 Guadalupe, Suite 3-460  
Austin, TX 78701

*Via Email: [Dusty.Johnston@bon.texas.gov](mailto:Dusty.Johnston@bon.texas.gov)*

Re: Texas Board of Nursing; Proposed Rules  
Chapter 228. Pain Management  
December 6, 2013 Issue of Texas Register

Dear Mr. Johnston:

The Texas Society of Anesthesiologists (“TSA”) is the Texas component of the American Society of Anesthesiologists and counts among its members over 3,000 physicians who practice the medical specialty of anesthesiology in health care facilities throughout Texas. A significant number of TSA’s members practice the subspecialty of pain management.

TSA supported passage of Senate Bill 406, Senate Bill 1643, and House Bill 1803 during the 83rd Legislature, regular session, and likewise supports the Board of Nursing’s proposed adoption of Chapter 228. In the interest of consistency and completeness, TSA offers one recommendation.

While it may be apparent to the Board that Advanced Practice Registered Nurses (“APRNs”) who provide pain management services in environments regulated by Chapter 228 are subject to the requirements set forth in 22 TAC Chapter 221 (relating to Advanced Practice Registered Nurses) and 22 TAC Chapter 222 (relating to Advanced Practice Registered Nurses with Prescriptive Authority), the application of these rules to pain management practice sites may be less apparent to the Board’s licensees. As noted in the Board’s introduction to proposed Chapter 228, the Board has determined that additional guidance is needed for APRNs who practice in the area of pain management, but APRNs are still required to comply with the standards of nursing practice set forth in Chapters 221 and 222. TSA recommends that the Board make it clear to its licensees that new proposed Chapter 228 does not in any way replace or substitute for Chapters 221 and 222.

TSA recommends addition of the following language to Section 228.1(b) Purpose.:

In addition to the requirements of this Chapter, APRNs providing pain management services are also required to comply with 22 TAC Chapters 221 and 222.

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TSA believes that addition of this language will eliminate any uncertainty that could lead APRNs licensed by the Board to believe that the new proposed Chapter 228 is intended by the Board as a substitute or replacement for the Board's existing rules.

Thank you for your consideration of these comments. Please advise if you have questions.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'David W. Mercier', with a stylized flourish at the end.

David W. Mercier, M.D.  
President

cc: Jolene Zych  
Advanced Practice Nursing Consultant  
Texas Board of Nursing  
333 Guadalupe, Suite 3-460  
Austin, TX 78701

*Via Email: [Jolene.Zych@bon.texas.gov](mailto:Jolene.Zych@bon.texas.gov)*

## SUMMARY OF COMMENTS AND AGENCY RESPONSE.

### *General comments*

*Comment:* A commenter representing the Texas Pain Society states that the organization is supportive of the proposed rules and would not suggest any changes at this time. The commenter further states that, as the rules are implemented and used in daily practice, there may be a need to go back and review the language and fine tune any areas that need improvement.

*Agency Response:* The Board appreciates the comment. Further, the Board agrees that the rules should be reviewed regularly to ensure that they are meeting their intended purpose, as well as appropriately addressing the issues that affect acute and chronic pain management.

*Comment:* A commenter representing the Texas Society of Anesthesiologists suggests that the Board clarify that advanced practice registered nurses (APRNs) are still subject to the requirements of Chapters 221 and 222, in addition to the requirements of new Chapter 228, and that Chapter 228 does not in any way replace or substitute the requirements in Chapters 221 and 222. The commenter provides the following suggested language:

In addition to the requirements of this Chapter, APRNs providing pain management services are also required to comply with 22 TAC Chapters 221 and 222.

The commenter believes that the addition of this language will eliminate any uncertainty that could lead APRNs licensed by the Board to believe that new Chapter 228 is intended by the Board as a substitute or replacement for the Board's existing rules.

*Agency Response:* The Board declines to make the suggested change. None of the provisions of adopted new Chapter 228 exclude the application of existing Chapters 221 and 222 to APRN practice. Existing Chapter 221 sets forth requirements that apply to all APRNs. Existing Chapter 222 sets forth requirements that apply to APRNs with prescriptive authority. Newly adopted Chapter 228 sets forth requirements that apply to APRNs who provide pain management services. To the extent that any confusion regarding the applicability of these chapters may exist, the Board believes it is more appropriate to address such issues on the Board's website in a "Frequently Asked Question".