

Rule Changes Effective February 21, 2016

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CHAPTER 165. MEDICAL RECORDS

§165.6, Medical Records Regarding an Abortion on an Unemancipated Minor

The amendments to 165.6, relating to Medical Records Regarding an Abortion on an Unemancipated Minor, are adopted in accordance with House Bill 3994, enacted by the 84th Legislature. The amendment to §165.6 changes language in subsection (b)(4) so that a physician who performs an abortion on an unemancipated minor during a medical emergency is required to execute an affidavit explaining the specific nature of the medical emergency that necessitated the immediate abortion and include a copy of the affidavit in the minor patient's file. Other language under subsection (b)(4) is deleted, as it was made redundant by HB 3994's changes. Further, language is added to subsection (c) requiring a physician's duty to maintain in the minor's medical record a return receipt of the required written notice from the physician who performed an abortion on the minor under emergency circumstances without the opportunity to obtain consent, to the parents or guardians of the minor. The amendments to subsection (c) also require that if the notice was delivered "undeliverable", the physician is required to maintain a copy of the notice itself. Finally, physician to show due diligence in determining any woman on whom the physician performs an abortion has reached the age of majority or has had the disabilities of a minority removed, and establishes the requirements of showing "due diligence", tracking the language of HB 3994.

CHAPTER 187. PROCEDURAL RULES

§187.35, Presentation of Proposal for Decision

The amendments to 187.35, relating to Presentation of Proposal for Decision, revise subsection (a)'s provisions related to notice requirements, to comport with changes made to the Administrative Procedure Act by SB 1267, 84th Legislature, R.S. (2015).

§187.37, Final Decision and Orders

The amendments to §187.37, relating to Final Decisions and Orders, revise provisions related to notice and deadline requirements in order to comport with changes made to the Administrative Procedure Act by SB 1267, 84th Leg., R.S. (2015).

§187.38, Motions for Rehearing

The amendments to 187.38, relating to Motions for Rehearing, revise provisions related to notice and deadline requirements in order to comport with changes made to the Administrative Procedure Act by SB 1267, 84th Leg., R.S. (2015).

§187.61, Ancillary Proceeding

The amendments to 187.61, relating to Ancillary Proceeding, clarify the Medical Board meets the exception in §2001.054(c-1) of Texas Government Code related to filing requirements for certain proceedings.

§187.86, Scope

The amendments to 187.86, relating to Scope, revise language in order to correct a reference to the title of 28 TAC §21.5010.

§187.87, Definitions

The amendments to 187.87, relating to Definitions, revise definitions for a facility-based physician to include an assistant surgeon, in accordance with changes made by SB 481, 84th Legislature, R.S. (2015). Other changes are made to correct references to the title of 28 TAC §21.5010.

§187.88, Complaint Process and Resolution

The amendment to 187.88, relating to Complaint Process and Resolution, represents general cleanup to the rule.

§187.89, Notice of Availability of Mandatory Mediation

The amendments to 187.89, relating to Notice of Availability of Mandatory Mediation, revises language related to the notice required in a billing statement for certain facility-based physicians, in accordance with changes made by SB 481 84th Legislature, Regular Session (2015).

CHAPTER 189. COMPLIANCE PROGRAM

§189.16, Monitoring, Proctoring, or Supervising Physician/Professional's Recommendation for Competency Assessment

New 189.16, concerning Monitoring, Proctoring, or Supervising Physician/Professional's Recommendation for Competency Assessment. The new rule provides that a monitoring, proctoring, or supervising physician/professional ("monitor") may recommend that a probationer complete a competency evaluation, requires that such a recommendation be reviewed and approved by the Disciplinary Process and Review Committee (DPRC) prior to enforcing the recommendation, and sets forth a process that will apply in the cases in which the DPRC Chair approves such a recommendation. The rule provides that the Board may take further appropriate action based upon the results of the competency evaluation or the probationer's failure to comply with procedures related to the competency evaluation.