

Assessment of Public Comment

During the public comment period, the Board received two written comments.

One comment expressed concern about several opioids, including buprenorphine and pain relief and medication assisted treatment, and consistency with the medical treatment guidelines (MTGs). The comment expressed similar concerns about fentanyl patches and methadone. The Drug Formulary is not intended to replace the applicable Medical Treatment Guidelines. Rather, the Drug Formulary is intended to be used in conjunction with the Medical Treatment Guidelines, and the user is expected to have a thorough understanding of both. In this context, the application of the Drug Formulary is predicated on the prescriber correctly applying the relevant Medical Treatment Guideline. To that end, the sections of the Formulary and MTGs that have been cited by the commenter are, in fact, consistent, so no change has been made in response to this comment.

The comment also requested clarification about the proposal not containing information on use of opioids in connection with traumatic brain injuries. The Traumatic Brain Injury (TBI) Medical Treatment Guideline (MTG) has not been released for public comment at the time of this public comment and response related to the Drug Formulary, so no change has been made in response to this comment. As the Drug Formulary becomes more expansive, both in the number of conditions that it includes, as well as the number of medications for those conditions, the Board feels that it would be prudent to provide additional guidance to complement the MTGs, including but not necessarily limited to Drug Formulary designations of “3rd-line” and “4th-line”, in those instances where the MTGs clearly indicate that there are 1st, 2nd, or perhaps even 3rd line medications that are clinically preferable. There is not presently a MTG for TBI, but as noted elsewhere, one is forthcoming.

Both comments opined that Phase B placement of testosterone is not appropriate, because treatment of hypogonadism resulting from opioid utilization should be part of the prior authorization process. The second comment requested that testosterone not be included in the formulary at all. This comment is an incorrect interpretation of the Formulary, so no change has been made in response to these comments.

The comment also expressed concern about alprazolam in Phase B, and that without limitation on use of sustained-release alprazolam, “XR” products may be utilized inappropriately in Phase A. The Drug Formulary is not intended to replace the applicable Medical Treatment Guidelines. Rather, the Drug Formulary is intended to be used in conjunction with the Medical Treatment Guidelines, and the user is expected to have a thorough understanding of both. In this context, the application of the Drug Formulary is predicated on the prescriber correctly applying the relevant Medical Treatment Guideline. The MTGs have multiple caveats related to polypharmacy, as well as specific warnings related to co-prescribing of opioids and benzodiazepines. To that end, the sections of the Formulary and MTGs that have been cited by the commenter are, in fact, consistent, so no change is required to the proposal.

The comment also expressed concern about the addition of antidepressants to Phase A. The Drug Formulary is not intended to replace the applicable Medical Treatment Guidelines. Rather, the Drug Formulary is intended to be used in conjunction with the Medical Treatment Guidelines, and the user is expected to have a thorough understanding of both. In this context, the application of the Drug Formulary is predicated on the prescriber correctly applying the relevant Medical Treatment Guideline. The MTGs have multiple caveats related to polypharmacy, as well as specific warnings related to prescribing of benzodiazepines. The comment also opined that the addition of antidepressants to Phase A is not appropriate because depression may be a preexisting condition. This comment is not related to the clinical content of the Drug Formulary, but rather to the process for determining causal relatedness under the NYS Workers' Compensation System. Therefore, no change has been made in response to this comment.

The comment requested clarification if there are PTSD and TBI MTGs forthcoming that would provide rationale for some of the inclusions on the proposed formulary, as well as inquiries about Depression MTGs. The Board has not made a change in response to this question, but notes that there is a current PTSD and Depression MTG proposal, and expects a TBI MTG proposal soon.

The comment opined that Desmopressin (DDAVP) should not be included on the Phase B formulary because it is a specific indication only. The Board has not made a change in response to this question, but notes that there is an expected TBI MTG to be proposed soon.

The comment requested clarification for the indication for use of prochlorperazine and promethazine in the treatment of depression. The Board recognizes that the commenter has identified an administrative/typographical error in the Drug Formulary, which has been corrected.

The comment requested clarification whether naproxen can be designated as Special Consideration 3 to exclude sustained-release formulations such as Naprelan. The Board believes that the decision to use short-acting versus long-acting naproxen is based on the provider using clinical judgment in the application of the MTGs on a case-by-case basis and should not be driven solely by a Formulary special consideration. Therefore, no changes have been made to the Formulary in response to this comment.

The comment stated that Fosamprenavir and Stavudine are not recommended by Public Health Guidelines for PEP therapy. The comment addresses one specific clinical scenario, "PEP" or "post-exposure prophylaxis", such as in the case of contaminated needles. Importantly, the Formulary does contain the U.S. CDC recommended PEP medications. Because the Drug Formulary lists other medications for a wide variety of other clinical scenarios as well, no changes have been made in response to this comment.

The comment requested clarification if they can designate biologicals, Migraine products, and neurostimulants as Special Consideration 4 on Phase B due to place therapy and to ensure the medication is related to the workplace injury. This comment does not address a specific condition and/or medication listed in the Formulary, and the Board believes that the Drug Formulary appropriately addresses the necessary special considerations and dosing for migraine

products, as well as that part of the comment is not related to the clinical content of the Drug Formulary, but rather to the process for determining causal relatedness under the NYS Workers' Compensation System. Therefore, no change has been made in response to this comment.

The comment requested clarification for whether all ophthalmic medications should be on Phase A and B as well as the Eye list. The Board recognizes that the commenter has identified an administrative/typographical error in the Drug Formulary, which has been corrected.

The comments requested a Special Consideration 4 to be added to Levothyroxine to ensure appropriate use. The second comment requested that Levothyroxine not be included in the formulary at all. These comments primarily not related to the clinical content of the Drug Formulary, but rather to the process for determining causal relatedness under the NYS Workers' Compensation System. The commentary correctly states that these medications are not commonly used for work-related conditions (for which there are currently MTGs). However, it should be noted that the medications in question appear in the Drug Formulary as Phase B medications for Traumatic Brain Injury (TBI) patients, for which an MTG is expected to be proposed soon, so no change has been made in response to these comments.

The second comment expressed concern with the approval of medical marijuana for workers' compensation claimants because it is still considered illegal under federal law, expressed doubt about whether medical marijuana is appropriate for evidence-based treatment plans, and disagreed with transferring the approval of medical marijuana to the prior approval process. The Board already allows for prior authorization of medical marijuana, and this has been upheld by the courts. Medical marijuana is not included in the Drug Formulary - this proposal simply moves medical marijuana under the formulary prior authorization process to streamline the process, so no change has been made in response to this comment.

Changes made:

- Corrected typographical errors
- Change to remove “yes” designation for prochlorperazine and promethazine to make clear that these medications should only be used in accordance with the applicable MTG
- Changed effective date in section 441.3(a) to 9/13/21
- Stylistic/clarifying changes in the introduction for consistency with other Board documents/trainings, etc. (“partial approval” to “grant in part,” “approval” to “grant,” “first-level” review to “Level 1,” etc. and “accident or injury” to “injury or illness”)