



WASHINGTON
Medical
Commission
Licensing. Accountability. Leadership.

Rules Workshop

Clinical Support Program

May 12, 2021 – 3:30 pm to 4:30 pm

GoToWebinar

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Rule Workshop Notice



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Rulemaking

The Washington Medical Commission (commission) has officially filed a [CR-101](#) with the Office of the Code Reviser on February 22, 2018. The WSR# is 18-06-007.

The commission is considering creating two new rule sections, and revising related rule sections as appropriate, to establish a clinical support program (program), its criteria and procedures for allopathic physicians and physician assistants. The intent of the program is to assist practitioners with practice deficiencies related to consistent standards of practice and establish continuing competency mechanisms that will protect patients proactively through a plan of education, training and/or supervision. The commission may resolve practice deficiencies through the program at any point in a practitioner's period of licensure.

Proposed Clinical Support Program Rules Workshop Meeting

In response to the filing, the Commission will conduct an open public rules workshop on Wednesday, May 12, 2021, from 3:30 pm to 4:30 pm via GoToWebinar.

Please register for this workshop at:

<https://attendee.gotowebinar.com/register/5367594080233031436>

After registering, you will receive a confirmation email containing information about joining the webinar.

This meeting will be open to the public.

In response to the COVID-19 public health emergency, and to promote social distancing, the Medical Commission will not provide a physical location for this meeting. A virtual public meeting, without a physical meeting space, will be held instead.

The purpose of the rules workshop will be to:

- Invite committee members and members of the public to present draft rule language; and
- Discuss next steps

Interested parties and the general public are invited to participate in the rules workshops or provide comments on draft rules. For continued updates on rule

development, interested parties are encouraged to join the [Commission's rules GovDelivery](#).

For more information, please contact Amelia Boyd, Program Manager, Washington Medical Commission at (360) 236-2727 or by email at amelia.boyd@wmc.wa.gov.

*CR means Code Reviser

Rules Workshop Agenda



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In response to the COVID-19 public health emergency, and to promote social distancing, the Medical Commission will not provide a physical location for this meeting. A virtual public meeting, without a physical meeting space, will be held instead. The registration link can be found below.

Wednesday, May 12, 2021 – 3:30 pm to 4:30 pm

Clinical Support Program Pre-Proposal Rules

- Housekeeping
- Open workshop
- Comment from WSMA
- Discuss draft language
- Other comments
- Next steps
- Close workshop

To request this document in another format, call 1-800-525-0127. Deaf or hard of hearing customers, please call 711 (Washington Relay) or email civil.rights@doh.wa.gov.



CR-101

WSR 18-06-007
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH
(Medical Quality Assurance Commission)
[Filed February 22, 2018, 4:37 p.m.]

Subject of Possible Rule Making: WAC 246-919-XXX allopathic physicians and 246-918-XXX allopathic physician assistants, the medical quality assurance commission (commission) is considering creating two new rule sections that will establish a clinical assistance program to resolve practice deficiencies that may not rise to the level of a license sanction or revocation through a plan of education, training, and/or supervision for allopathic physicians and physician assistants. The commission will consider amending other related rules as needed.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW [18.71.017](#), [18.71.002](#), and [18.130.050](#).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission is considering creating two new rule sections, and revising related rule sections as appropriate, to establish a clinical support program (program), its criteria and procedures for allopathic physicians and physician assistants. The intent of the program is to assist practitioners with practice deficiencies related to consistent standards of practice and establish continuing competency mechanisms that will protect patients proactively through a plan of education, training and/or supervision. The commission may resolve practice deficiencies through the program at any point in a practitioner's period of licensure.

The program would allow for quick identification of issues requiring clinical support, through practitioner or employer inquiry, referral, and including complaints that may not rise to the level of a license sanction or revocation. These issues could be resolved with voluntary participation from the allopathic physician or physician assistant in the program. The commission is considering education, training, supervision, or a combination of the three as part of the program. Issues appropriate for clinical support would likely include but are not limited to practice deficiencies such as a failure to properly conduct a patient assessment or document treatment. This also allows an allopathic physician or physician assistant a structured process to quickly improve his or her clinical skills.

Finally, participation in this program places the commission in an active patient safety role.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None known.

Process for Developing New Rule: Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Daidria Amelia Underwood, P.O. Box 47866, Olympia, WA 98504-7866, phone 360-236-2727, fax 360-236-2795, TTY 360-833-6388 or 711, email daidria.underwood@doh.wa.gov.

Additional comments: Interested persons may sign up for the commission's interested parties list (GovDelivery) at <https://public.govdelivery.com/accounts/WADOH/subscriber/new>. All commission rule-making notices will be emailed via GovDelivery and

interested parties will be invited to participate in public rule meetings
and submit written comments for consideration.

February 22, 2018
Melanie de Leon
Executive Director



Comment

Tom Schaaf, MD, MHA
President

January 7, 2020

William Hirota, MD
President-Elect

Donna Smith, MD
Past President

Nathan Schlicher, MD, JD, MBA
1st Vice President

Mika Sinanan, MD, PhD
2nd Vice President

Katina Rue, DO
Secretary-Treasurer

Nariman Heshmati, MD
Assistant Secretary-Treasurer

Jennifer Hanscom
Executive Director/CEO

Ms. Amelia Boyd
Washington Medical Commission, Department of Health
P.O. Box 47866
Olympia, WA 98504-7866

Re: Clinical Support Program Rulemaking

Dear Members of the Washington Medical Commission:

On behalf of the Washington State Medical Association (WSMA) and our physician and physician assistant members, thank you for the opportunity to provide comment on the [proposed "Clinical Support Program."](#)

While supportive of efforts to improve patient care by resolving practice deficiencies through a plan of education, training, and/or supervision, we note serious concerns based on review of the draft language. Chief among those concerns is the lack of confidentiality protections for program participants.

The WSMA is opposed to the creation of the program as currently proposed and respectfully requests the Washington Medical Commission (WMC) rescind its CR-102.

The program lacks requisite confidentiality protections:

Failure to adequately ensure the confidentiality and personal privacy interests of physicians and physician assistants will significantly deter program participation.

Unlike previous efforts, the current proposed program is susceptible to public disclosure. This will substantially discourage participation, as evidence of participation could harm physicians' and physician assistants' personal and professional reputation despite the program being non-disciplinary. We strongly recommend that the WMC seek legislative protection from disclosure before implementing a clinical support program.

We thank the WMC for reinstating language that exempts this non-disciplinary program participation from being reported to the National Practitioner Database and Federation of State Medical Boards, as discussed at prior workshop meetings.

Protection from public disclosure, along with protections from reporting, will help minimize perceived risk and help ensure participation.

Concerns regarding the alleged voluntary nature of the program:

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2001 Sixth Avenue, Suite 2700
Seattle, WA 98121
o / 206.441.9762 fax / 206.441.5863
email / wsma@wsma.org

Olympia Office
1800 Cooper Point Road SW
Building 7, Suite A
Olympia, WA 98502
o / 360.352.4848 fax / 360.352.4303

While the eligibility criteria indicates that a physician or physician assistant must agree to participate, using this to define the program as voluntary is concerning.

Per subsections (5) and (6), once a participant accepts a clinical support plan: 1) they are required to comply; 2) they are unable to cease participation; 3) closure is dependent on the WMC's determination; and 4) failure to complete a clinical support plan could result in further action. Additionally, subsection (6)(e) suggests that closure is permissive.

We ask that the language expressly reflects the WMC's intent to create a voluntary program. Without this specificity, we are concerned that the program will not meet its intended goals and could be used as another punitive measure in an already challenging disciplinary process. We also request the WMC clearly indicate that closure will occur upon the completion of clinical the support plan.

Expansion of Disciplinary Authority/or Creation of a de facto disciplinary process:

Although the program is purportedly non-disciplinary, the language pertaining to material terms, parameters, and applicability is overly vague and could be used to expand the WMC's disciplinary reach. This concern is not unwarranted. During discussion at WMC policy meetings, staff indicated the ability to use information gathered to apply in borderline cases that could be investigated.

Further, the term "practice deficiency" is not sufficiently defined. The lack of clarity regarding when the program will be applied is of significant concern, as it could grant the WMC broad authority to investigate. We are aware of concerns WSMA members have with the WMC disciplinary process and this vagueness lends to the perception of veiled discipline.

Discrepancies between reported budget issues at WMC and the creation of a new program:

Citing budget deficits, the WMC significantly raised licensure renewal fees on physicians and physician assistants in the fall of 2019. The creation of a new program will require resources and should not be implemented if it would require additional fee increases to maintain in the future.

While we are supportive of this program in concept, we have serious concerns with the program as proposed and respectfully request the WMC rescind the CR-102. We appreciate your consideration of these comments. With questions, please don't hesitate to reach out to Katerina LaMarche at katerina@wsma.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeb Shepard". The signature is fluid and cursive, with the first name "Jeb" being more prominent than the last name "Shepard".

Jeb Shepard
Director of Policy
Washington State Medical Association



Draft Language

New Section

Physicians

246-919-650

Clinical Support Program

(1) The purpose of the clinical support program is to address practice deficiencies identified in the course of an investigation. The clinical support program may include education, training, and monitoring to improve the quality of care and reduce the risk of patient harm.

(2) A clinical support plan is a written and signed agreement between the physician and the commission listing steps the physician may take to resolve practice deficiencies. A plan may include, but is not limited to, one of more of the following: practice changes, training, continuing medical education, or follow-up monitoring of the physician's clinical practice by the physician's current employer or other practice monitor approved by the commission.

(3) The commission may resolve an alleged practice deficiency through the clinical support program following an investigation of a complaint or a mandatory report.

(4) The commission shall use the following criteria to determine eligibility for the clinical support program:

(a) The alleged practice deficiency may be corrected by practice changes, education, training, monitoring, or any combination of these, and are unlikely to reoccur;

(b) Practice changes, education, training, or monitoring, or any combination of these, is sufficient to ensure patient protection;

(c) The physician agrees to participate in the clinical support program; and

(d) The commission has not authorized disciplinary action for the identified practice deficiency under RCW 18.130.172, RCW 18.130.170, or RCW 18.130.090.

(5) The commission has sole discretion to offer a clinical support plan to an eligible physician to resolve a complaint. A physician who accepts a clinical support plan waives any right to a hearing to modify the clinical support plan or challenge the commission's decision regarding successful completion of the clinical support plan.

(6) The commission shall use the following process to implement the clinical support program:

(a) After an investigation identifies an alleged practice deficiency, the commission will apply criteria in subsection (4) of this section to determine eligibility for the clinical support program;

(b) If all of the criteria are met, and the commission determines that the physician is eligible for participation in the clinical support program, the commission may propose a clinical support plan to the physician;

(c) The commission shall evaluate whether the practice deficiency or deficiencies have been corrected and are unlikely to reoccur;

(d) The commission may conduct additional investigation and consider disciplinary action if additional facts become known or circumstances change such that the physician is no longer eligible based on the criteria in subsection (4) of this section; and

(e) If the physician successfully completes the clinical support plan, the commission will close the matter without further action.

(7) Participation in the clinical support program is not disciplinary action and is not reportable to the National Practitioner Data Bank or the Federation of State Medical Boards.

New Section

Physician Assistants

246-918-380

Clinical Support Program

(1) The purpose of the clinical support program is to address practice deficiencies identified in the course of an investigation. The clinical support program may include education, training, and monitoring to improve the quality of care and reduce the risk of patient harm.

(2) A clinical support plan is a written and signed agreement between the physician assistant and the commission listing steps the physician may take to resolve practice deficiencies. A plan may include, but is not limited to, one or more of the following: practice changes, training, continuing medical education, or follow-up monitoring of the physician assistant's clinical practice by the physician assistant's current employer or other practice monitor approved by the commission.

(3) The commission may resolve an alleged practice deficiency through the clinical support program following an investigation of a complaint or a mandatory report.

(4) The commission shall use the following criteria to determine eligibility for the clinical support program:

(a) The alleged practice deficiency may be corrected by practice changes, education, training, monitoring, or any combination of these, and are unlikely to reoccur;

(b) Practice changes, education, training, or monitoring, or any combination of these, is sufficient to ensure patient protection;

(c) The physician assistant agrees to participate in the clinical support program;
and

(d) The commission has not authorized disciplinary action for the identified practice deficiency under RCW 18.130.172, RCW 18.130.170, or RCW 18.130.090.

(5) The commission has sole discretion to offer a clinical support plan to an eligible physician assistant to resolve a complaint. A physician assistant who accepts a clinical support plan waives any right to a hearing to modify the clinical support plan or challenge the commission's decision regarding successful completion of the clinical support plan.

(6) The commission shall use the following process to implement the clinical support program:

(a) After an investigation identifies an alleged practice deficiency, the commission will apply criteria in subsection (4) of this section to determine eligibility for the clinical support program;

(b) If all of the criteria are met, and the commission determines that the physician assistant is eligible for participation in the clinical support program, the commission may propose a clinical support plan to the physician assistant;

(c) The commission shall evaluate whether the practice deficiency or deficiencies have been corrected and are unlikely to reoccur;

(d) The commission may conduct additional investigation and consider disciplinary action if additional facts become known or circumstances change such that the physician assistant is no longer eligible based on the criteria in subsection (4) of this section; and

(e) If the physician assistant successfully completes the clinical support plan, the commission will close the matter without further action.

(7) Participation in the clinical support program is not disciplinary action and is not reportable to the National Practitioner Data Bank or the Federation of State Medical Boards.