

State of Washington  
Medical Quality Assurance Commission

# Interpretive Statement

Title:	Delegation of the use of laser, light, radiofrequency, and plasma devices as applied to the skin— regarding 'temporary absence of the delegating physician' MD2015-01-IS	
References:	<a href="#">WAC 246-919-605</a> and <a href="#">RCW 18.71.017</a>	
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## Summary

Under [WAC 246-919-605](#) (10)(h) an existing patient with an established treatment plan may receive laser, light, radiofrequency and plasma (LLRP) treatment from a properly trained and licensed professional during temporary absences of the delegating physician. The Medical Quality Assurance Commission (Commission) interprets the word “temporary” to mean brief, intermittent, and for a limited time. In the context of [WAC 246-919-605](#)(10)(h), the Commission interprets the phrase “temporary absences of the delegating physician” to mean that the delegating physician may be absent for brief, intermittent or limited periods of time. The delegating physician’s absence from the site where the treatment occurs should not be an ongoing arrangement. An arrangement in which the delegating physician spends significant amounts of time absent from the place where the treatment occurs circumvents the intent of the rule and is contrary to the plain language of the rule.

## Background and Analysis

The Commission adopted [WAC 246-919-605](#) to regulate the use of LLRP devices as applied to the skin. The federal Food and Drug Administration limits the sale of prescription devices, which include LLRP devices, to persons who have prescriptive authority within the state in which they practice. The purpose of the rule was to address increasing reports that unlicensed or inadequately trained persons were using prescription devices with little or no supervision and consequently harming patients. The Commission intended to enhance the safety of patients by setting minimal standards for the use of LLRP devices by physicians.<sup>1</sup>

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<sup>1</sup> The Commission also adopted a rule setting minimal standards for the use of LLRP devices by physician assistants. That rule provides that if a physician assistant delegates the use of an LLRP device to a properly trained and licensed

The Commission's intent of the rule is for the supervising physician to be on site while patients are receiving treatment with an LLRP device, but allows the physician to be away temporarily, for example, in order to see a patient in the hospital. The Commission created the rule on the assumption the physician supervising the use of an LLRP device generally would be working in the same facility as the supervised professional using the device. The Commission did not intend for the supervising physician to spend more time in a separate medical practice and provide remote and limited supervision of patients receiving medical treatments with an LLRP device administered by non-physicians in a separate clinic.

The rule requires a physician who delegates the use of an LLRP device to be on the immediate premises during the initial treatment. [WAC 246-919-605\(10\)\(h\)](#) provides that patients with an established treatment plan may continue to receive care from a properly trained and supervised professional whose licensure and scope of practice all the use of an LLRP device during temporary absences of the delegating physician provided a local back-up physician is available by phone and able to see the patient within 60 minutes.

The Commission has become aware that some physicians misinterpret the intent of "temporary absences of the delegating physician" referenced in [WAC 246-919-605\(10\)\(h\)](#). Some physicians are serving as medical directors of clinics in which LLRP devices are used, but have their own practices in separate facilities. These physicians are not always on-site during most of the LLRP treatments because they are spending a majority of their time in their own practices.

After the initial LLRP treatment, these physicians have been returning to their own practices, and are not present for further treatment. They work from their own offices and agree to be reachable by phone and able to respond within 60 minutes. These physicians misinterpret subsection [WAC 246-191-605\(10\)\(h\)](#) to permit them to work in another location and visit the clinic in which the LLRP treatment is occurring on an as-needed basis.

## Conclusion

The Commission interprets the word "temporary" to mean brief, intermittent, and for a limited time. In the context of [WAC 246-919-605\(10\)\(h\)](#), the Commission interprets the phrase "temporary absences of the delegating physician" to mean that the delegating physician may be absent for brief, intermittent or limited periods of time. The delegating physician's absence from the site where the treatment occurs should not be an ongoing arrangement. An arrangement in which the delegating physician spends significant amounts of time absent from the place where the treatment occurs circumvents the intent of the rule and is contrary to the plain language of the rule.

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professional, the physician assistant must be on the immediate premises during the use of an LLRP device. ([WAC 246-918-125](#))