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NOTICE OF ADOPTION OF AN INTERPRETIVE STATEMENT

Title of Interpretive Statement: Opioid Prescribing & Monitoring for Patients (INS2019-02)

Issuing Entity: Washington Medical Commission

Subject Matter: Opioid Prescribing

Effective Date: March 8, 2019

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Interpretive Statement

Title:	Opioid Prescribing & Monitoring for Patients	INS2019-02
References:	RCW 18.71.800; RCW 18.71A.800; WAC 246-919-850 through WAC 246-919-985; WAC 246-918-800 through WAC 246-918-990	
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Approved By:	Alden Roberts, MD, Chair (signature on file)	

Description of the Issue

The Washington Medical Commission (Commission) is aware that some practitioners are refusing to see or continue to treat patients who have taken or are currently using opioids. To help underscore and clarify the need for patient access and the rights of patients for treatment, the Commission issues this interpretive statement for patient and practitioner use.

Interpretive Statement

The opioid prescribing rule states that appropriate pain management is the responsibility of the treating practitioner and the inappropriate treatment of pain, including lack of treatment, is a departure from the standard of care. The Commission, in WAC 246-919-850 and WAC 246-918-800 encourages practitioners, especially those in primary care, to view pain management as a part of standard medical practice for all patients and to become knowledgeable about assessing pain and effective treatments. The intent provision explicitly states that the rules are not inflexible and repeatedly recognizes the importance of clinical judgment.

The Commission interprets WAC 246-919-850 to 246-919-985 and corresponding physician assistant Washington Administrative Code (WAC 246-918-800 to WAC 246-918-935) as encouragement to practitioners to not exclude, undertreat, or dismiss a patient from a practice solely because the patient has used or is using opioids in the course of normal medical care. While in most circumstances a practitioner is not legally required to treat a particular patient, the refusal to see or continue to treat a patient merely because the patient has taken or is currently using opioids is contrary to the clear intent of the Commission's rules governing opioid prescribing. Ending opioid therapy or initiating a forced tapering of opioids to a particular MED level for reasons outside of clinical efficacy or improvement in quality of life and/or function or abuse would violate the intent of the rules.

Background

The Commission established rules for managing chronic, noncancer pain in 2011 to alleviate practitioner uncertainty, encourage better pain management, and assist practitioners in providing appropriate medical care for patients. In 2017, Engrossed Substitute House Bill (ESHB) 1427 required the Commission to cover opioid prescribing for acute nonoperative, acute perioperative, and subacute pain, including the use of multimodal pharmacologic and nonpharmacological therapies as possible alternatives to opioids. In addition to developing new opioid prescribing rules pursuant to ESHB 1427, the Commission made minor modifications to the current chronic pain rules in 2018 resulting in comprehensive opioid prescribing rules for all phases of pain, effective January 1, 2019.

Analysis

The new rule, WAC 246-919-850, and its corresponding physician assistant rule (WAC 246-918-800), describe the Commission's intent and scope of the rules as follows:

> "The Washington state medical quality assurance commission (commission) recognizes that principles of quality medical practice dictate that the people of the state of Washington have access to appropriate and effective pain relief. The appropriate application of up-to-date knowledge and treatment modalities can serve to improve the quality of life for those patients who suffer from pain as well as reduce the morbidity, mortality, and costs associated with untreated or inappropriately treated pain. For the purposes of these rules, the inappropriate treatment of pain includes nontreatment, undertreatment, overtreatment, and the continued use of ineffective treatments.
> …
> Therefore, it should be recognized that adherence to these rules will not guarantee an accurate diagnosis or a successful outcome. The sole purpose of these rules is to assist [practitioners] in following a reasonable course of action based on current knowledge, available resources, and the needs of the patient to deliver effective and safe medical care."

Examples

Existing Patient

A patient with a longstanding history in a medical practice develops an injury or condition that becomes a pain condition requiring chronic opioid therapy. A practitioner who refuses to treat the condition properly, including the appropriate utilization of opioids when opioids are clearly indicated, would be practicing below the standard of care. Similarly, if the practitioner referred the patient to a pain management specialist as defined by Commission rule, but refused to continue or support the pain management treatment designed by the specialist while responding to all other aspects of patient care, would likely be practicing below the standard of care. Finally, electing to terminate the patient from the practice, because their regular care involves pain management or opioid therapy, would be considered practice below the standard of care.

New Patient

The Commission's opioid prescribing rules provide incentives for practitioners to take new patients into their practice who are on existing opioid therapy regimens.

WAC 246-919-955 and 246-918-905, and the corresponding physician assistant rules, provide specific guidance to the practitioner to do the following with new patients on high dose opioids:

- Maintain the patient's current opioid doses until an appropriate assessment suggests that a change is indicated (see second bullet point).
- Evaluate over time if any tapering can or should be done.
- Be aware that new patients on high dose opioids are exempt from mandatory pain specialist consultation requirements for the first three months of newly established care if:
    - The patient was previously being treated for the same condition(s);
    - The dose is stable and nonescalating;
    - There is a history of compliance with written agreements and treatment plans; and
    - There is documented function improvements or stability at the presenting dose.

Tapering

A patient on opioid therapy, chronic or otherwise, is on a stable non-escalating dose. The practitioner has observed the patient's function and quality of life to be positive. Citing reasons related to state or federal law or desire to have the patient below a certain morphine equivalent dose (MED) per day, the practitioner initiates a tapering schedule without consent of the patient or consideration of function or quality of life. This would be a clear violation of the Commission opioid prescribing rules.

WAC 246-919-950 clearly explains that tapering would be expected for chronic pain patients when one or more of the following occurs:

- The patient requests tapering;
- The patient experiences an improvement in function or pain;
- The patient is noncompliant with the written agreement;
- Other treatment modalities are indicated;
- Evidence of misuse, abuse, substance use disorder, or diversion;
- The patient experiences a severe adverse event or overdose;
- Unauthorized escalation of doses; or
- An authorized escalation of dose with no improvement in pain or function.

A patient on a stable non-escalating dose with positive impact on function would be exempt from any need for additional consultation with a pain specialist regarding treatment. Additionally, there is no upper MED limit in Washington State or federal law. The Centers for Disease Control (CDC) has a 90 MED descriptor in their guidelines, which, while a valid indication for consultation, does not have the force of law in Washington. The Commission's

opioid prescribing rules represent the only legal requirement for licensed allopathic physicians and physician assistants in Washington state, and cite a 120 MED consultation threshold for practitioners who are not considered pain management specialists under the rule.