



Medical Quality Assurance Commission Rules for the Management of Chronic Non-cancer Pain

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Disclaimer

This set of questions and answers is intended to provide an overview of the MQAC's rules for the management of chronic non-cancer pain, and is not intended to represent legal advice. This document is not a substitute for reading the rules and learning about them in CME presentations, including one sponsored by the MQAC, and those developed by other organizations. If the rules apply to you and your practice we recommend you read the rules completely and familiarize yourself with their requirements.

NOTE

The MQAC encourages you to take advantage of **4 free hours of CME** related to the pain rules. Go to the MQAC pain management web page, <http://www.doh.wa.gov/hsqa/mqac/PainManagement.htm>, click on “Opioid Prescribing Video and CME,” then click on “CME Activities” and scroll down to “Click to Begin.”

Do the pain rules apply to me and my practice?

The newly adopted MQAC rules for the management of chronic non-cancer pain (pain rules) apply to you if you treat patients with opioids for chronic non-cancer pain (as defined in the rules).

The rules do not apply to you if you are providing palliative care, hospice care, or other forms of end-of-life care. The rules also do not apply to the management of acute pain related to an injury or surgical procedure.¹

¹ WAC 246-919-851.

What is chronic non-cancer pain according to the pain rules?

The pain rules define chronic non-cancer pain as a pain not related to cancer which persists beyond the usual course of an acute disease, or the healing of an injury. Chronic non-cancer pain may or may not be associated with a pathologic process (acute or chronic) that causes continuous or intermittent pain over months or years. There is no minimum duration of pain which triggers the definition of chronic non-cancer pain and application of the rules. Of note, however, is that “acute pain” is described as something which is “time limited, often less than three months in duration, and usually less than six months.”²

What does “MED” mean?

MED is an abbreviation for “morphine equivalent dose,” which means a conversion of the dose of various opioids to the equivalent dose of morphine as designated in an accepted conversion table.³ One such table may be found on the Washington State Agency Medical Directors Group website at: <http://www.agencymeddirectors.wa.gov/opioiddosing.asp#CME>, and click on “Dose Calculator.” You can save the calculator to your computer for convenience.

When do the pain rules go into effect?

The MQAC pain rules, which apply to medical doctors and medical physician assistants, become effective on January 2, 2012. The pain rules which apply to osteopathic physicians, osteopathic physician assistants, ARNPs, dentists, and podiatrists became effective July 1, 2011.

Do I have to take CME in order to treat patients with chronic non-cancer pain under the pain rules?

It depends. Taking a CME course is not required to treat patients with chronic non-cancer pain in general. However, 12 hours of pain-related Category I CME (including at least 2 hours related to long-acting opioids such as methadone) is required if you wish to be exempt from having to send your patients for a mandatory consultation with a pain specialist under certain circumstances (see below).⁴ The free CME offered by the MQAC counts toward the CME requirement if you wish to become exempt.

² WAC 246-919-852.

³ WAC 246-919-852.

⁴ WAC 246-919-862.

Further, the rules suggest, but do not require, a one-time (lifetime) completion of at least four hours of CME related to long-acting opioids (including methadone) if you prescribe those medications.⁵

Are the pain rules guidelines, or do the pain rules impose mandatory requirements I must follow in my practice?

The introductory intent section of the rules states that the rules “are not inflexible rules or rigid practice requirements.”⁶ The section goes on to say that the “ultimate propriety of any specific procedure or course of action must be made by the practitioner based on the circumstances presented.” In addition, the intent section clearly states that the rules do not establish a standard of care. A course of treatment which differs from the rules may not be a violation of the rules so long as you document that the variance was based on your reasonable judgment, was indicated by the patient’s condition, or was taken because of limited resources or because of advances in knowledge or technology subsequent to the rules becoming effective.

That being said, most of the rules are nonetheless written as imperatives (i.e. “shall” and “must”). It will take some time to see how the MQAC acts on compliance with the pain rules. In addition, it is unclear how a court might reconcile the apparent conflict between the intent section (rules do not establish a standard of care; rules as guidelines) and the remainder of the pain rules (rules as practice mandates). Until we have clear answers on these points it is safest to follow the requirements of the rules, unless you can provide adequate documentation to support an alternate course of action.

What is inappropriate treatment of pain under the pain rules?

According to the introductory intent section of the pain rules, “inappropriate treatment of pain” includes not only overtreatment and the continuation of ineffective treatments, but also includes non-treatment and under-treatment of chronic non-cancer pain.

The implications of this statement regarding inappropriate treatment of pain are unclear. The pain rules require a defined treatment plan and periodic reviews of the effects of treatment (see below). Therefore it would appear that whatever treatment you are providing must have a demonstrated positive effect or else the treatment would have to be modified. Otherwise the treatment might be considered “inappropriate.” Only time will tell how the MQAC approaches this issue.

⁵ WAC 246-919-858.

⁶ WAC 246-919-850.

What must I do before treating a patient with chronic non-cancer pain?

Before initiating treatment for a patient with chronic non-cancer pain you must perform a thorough history and physical evaluation of the patient.⁷

The history must include:

- Current and past treatments for pain;
- Any co-morbidities; A risk screening for potential co-morbidities, includes a history of:
 - Addiction;
 - Abuse of opioid medications or aberrant behavior related to that use;
 - Psychiatric conditions, including poorly controlled depression or anxiety;
 - Along with use of opioids, any concomitant use of benzodiazepines, alcohol, or other medications which can affect the central nervous system;
 - Significant adverse events such as falls or fractures (or risk thereof);
 - Receiving opioids from more than one physician and/or physician group;
 - Repeated visits to an emergency department seeking opioids;
 - Sleep apnea or other respiratory risk factors;
 - Possible or current pregnancy; and
 - Allergies or intolerances.
- Any history of substance abuse;
- A review of pain-related issues including:
 - The nature and intensity of the pain;
 - The effect of the pain on the patient's physical and psychological function; and
 - A list of the patient's medications, including their indications, date, type, dosage, and quantity prescribed

The history should include:

- A review of any available prescription monitoring program or emergency department-based information; and
- Any relevant information a pharmacist has provided to you.

You must perform a physical examination.

Documentation in the health record must be readily available for review and should include:

- The diagnosis, treatment plan (see below), and objectives of treatment;
- The presence of one or more indications for the use of pain medications;
- Medications prescribed;
- Results of periodic reviews (see below);

⁷ WAC 246-919-853.

- Written agreements for treatment between you and the patient (see below); and
- Your instructions to the patient.

What is the written treatment plan required in the pain rules?

The written treatment plan must state the objectives which will be used to determine the effectiveness of treatment.⁸

The written treatment plan must include at least:

- Any changes in pain relief;
- Any changes in the patient's physical and/or psychosocial function; and
- Any additional diagnostic evaluations or other treatments that are planned.

Are there specific requirements for providing informed consent in the pain rules?

Yes. You must obtain informed consent from the patient (or surrogate/ guardian with legal decision-making authority for the patient).⁹ As with any other informed consent you must discuss the nature of the proposed treatment, and the risks and benefits of the treatment, as well as those related to alternative treatments.

What is the written treatment agreement in the pain rules?

For patients you feel are at high risk for medication abuse, have a history of substance abuse, or any psychiatric co-morbidities, you must use a written treatment agreement which outlines the patient's responsibilities.¹⁰

The written treatment agreement must include:

- The patient's agreement to provide suitable samples for urine/serum drug screening when you request;
- The patient's agreement to comply with the dose and frequency you prescribe for their medications, and to comply with a protocol for lost drugs or prescriptions;
- Reasons you state will result in discontinuation of drug therapy, such as violation of the written treatment agreement;
- The patient's agreement to have all prescriptions for medications used to treat the patient's chronic non-cancer pain filled by a single pharmacy or pharmacy system;

⁸ WAC 246-919-854.

⁹ WAC 246-919-855.

¹⁰ WAC 246-919-856.

- The patient’s agreement not to abuse alcohol or use other medically unauthorized substances;
- The patient’s written authorization:
 - For you to release a copy of the treatment agreement to local emergency departments, urgent care facilities, and pharmacies;
 - For other physicians to report violations of the treatment agreement back to you; and
 - For you to notify the proper authorities if you have reason to believe your patient has engaged in illegal activities.
- The patient’s acknowledgement:
 - That a violation of the written treatment agreement may result in a tapering or discontinuation of the patients prescriptions for chronic non-cancer pain;
 - That it is the patient’s responsibility to keep all medications safe and secure; and
 - That if the patient violates the terms of the agreement you will document the violation, any change in the patient’s treatment plan, and the rationale for those changes.

What is a periodic review, and when is a periodic review required?

You must periodically review the course of your treatment of your patients with chronic non-cancer pain, your patients’ state of health, and any new information regarding the etiology of their pain.¹¹ Such a review must take place at least every six (6) months. However, a periodic review may be performed at least annually for your patients whose condition is stable, and whose dose of opioids is not escalating and is less than forty (40) MED per day. In addition, you should periodically review any relevant information from any available prescription monitoring program or emergency department-based information exchange, and any information pharmacists provide you about your patients.

During the periodic review you must:

- Determine the patient’s compliance with any medication treatment plan;
- Determine if the patient’s pain, function, or quality of life have improved or diminished using objective evidence, and considering input from family members and other caregivers;
- Determine if you should continue or modify the patient’s pain medications based on the patient’s progress in reaching treatment objectives;
- Assess the appropriateness of the continuation of the current treatment plan if the patient’s progress under, or compliance with, the current treatment plan is unsatisfactory.
- Consider tapering, changing, or discontinuing treatment when:

¹¹ WAC 246-919-857.

- The patient’s level of function or pain has not improved after a suitable trial period;
- There is evidence of significant adverse effects from the current treatment;
- You determine other treatment modalities would be indicated; or
- There is evidence of misuse, addiction, or diversion of prescribed medications.

Do the pain rules specifically address long-acting opioids such as methadone?

Yes. The rules state that if you prescribe long-acting opioids, including methadone, you should be familiar with the risks and uses of such medications, and you should be prepared to conduct any necessary, careful monitoring.¹² This is especially important for your patients who are initiating treatment with such medications. If you use long-acting opioids, including methadone, the rules recommend you should have a one-time (lifetime) completion of at least four (4) hours of CME related to such medications.

What do the pain rules say about treating a patient with chronic non-cancer pain who presents for emergency or urgent care (episodic care)?

The pain rules include recommendations and requirements when you evaluate a patient with chronic non-cancer pain for what is termed “episodic care,” such as emergency or urgent care.¹³

When providing episodic care for a patient with chronic non-cancer pain you should:

- Review any available information from a prescription monitoring program or emergency department-related information exchange or other tracking system regarding the patient;
- Avoid providing opioids for the management of the patient’s chronic non-cancer pain;
- Limit the use of opioids for treatment of chronic non-cancer pain to the minimum amount necessary to control the pain or until the patient can receive care from his/her primary care physician if you feel that prescription of opioids is indicated; and
- Report known violations of a patient’s written treatment agreement to the patient’s primary care physician if the patient has such an agreement, and has provided a written authorization to release the agreement (see above) to physicians who provide episodic care.

When providing episodic care for a patient with chronic non-cancer pain you must:

- Include the indications for use on any prescription for opioids, or include the ICD code related to the patient’s diagnosis on the prescription; and

¹² WAC 246-919-858.

¹³ WAC 246-919-859.

- Write on the prescription that photo identification is required for the prescription to be picked up in order for the prescription to be filled.

What is a “pain management specialist” under the pain rules?

A pain management specialist is a physician, osteopathic physician, dentist, advanced registered nurse practitioner (ARNP), or a podiatrist who has satisfied the minimum criteria for training as established in the pain rules, and may see patients with chronic non-cancer pain in consultation as provided in the pain rules.¹⁴

What are the requirements for a physician to be considered a pain management specialist under the pain rules?

In order to be considered to be a pain management specialist a physician must:

- Be board-certified or eligible by an American Board of Medical Specialties (ABMS)-approved board in physical medicine and rehabilitation, rehabilitation medicine, neurology, rheumatology, or anesthesiology; or
- Have a subspecialty certificate in pain medicine by an ABMS-approved board; or
- Have a minimum of three (3) years of clinical experience in a chronic pain management care setting, and
 - Be credentialed in pain management by an entity approved by the MQAC; and
 - Successfully complete a minimum of at least eighteen (18) CME hours in pain management during the past two (2) years (for physicians); and
 - Have a current practice which consists of at least thirty (30) % direct provision of pain management care, or practice in a multidisciplinary pain clinic.

Note: The criteria for osteopathic physicians to become pain specialists are slightly different than those for medical doctors. Please review the full text of the pain rules for the criteria for osteopathic pain management specialists.

When are consultations with a pain management specialist recommended under the pain rules?

You should consider, and document your rationale for, a consultation with a pain management specialist as needed to achieve the treatment objectives you have set for your patients with

¹⁴ WAC 246-919-863.

chronic non-cancer pain.¹⁵ In particular, special attention, or consultation, is advised for patients with chronic non-cancer pain who:

- Are under eighteen (18) years of age;
- Are at risk for medication abuse or diversion;
- Have a history of substance abuse; or
- Have co-morbid psychiatric disorders.

Are there mandatory consultation requirements under the pain rules?

Yes. Unless you qualify for an exemption (see below), you must obtain a consultation from a pain management specialist if you prescribe a dose of opioids which exceeds one hundred twenty (120) mg MED per day.¹⁶

The mandatory consultation must consist of at least:

- An office visit with your patient and a pain management specialist; or
- A telephone consultation between you and the pain management specialist; or
- An electronic consultation between you and the pain management specialist; or
- An audio-visual evaluation conducted by the pain management specialist remotely, where the patient is present with you or another licensed health care practitioner you have designated or who has been designated by the pain management specialist.

You must document each mandatory consultation, and you must maintain any written consultation report as part of your patient’s medical record. The pain management specialist must also maintain a record of each consultation report as a patient medical record.

A consultation with a pain management specialist may also be required as part of a contract with an individual, insurance companies, or other entities.

Are there special circumstances where I am exempt from the mandatory consultation requirement under the pain rules?

Yes. You may be exempt from the mandatory consultation requirement of the pain rules under certain exigent and special circumstances when you have otherwise documented adherence to all other applicable standards as set forth in the pain rules.¹⁷

Exigent and special circumstances in which you may be exempt from the mandatory consultation requirement include situations when:

¹⁵ WAC 246-919-860.

¹⁶ WAC 246-919-860.

¹⁷ WAC 246-919-861.

- The patient is taking more than 120 mg MED per day of opioids but is following a tapering schedule; or
- The patient requires a temporary augmentation of the dose of opioids for treatment of acute pain which exceeds the 120 mg MED per day threshold (which may or may not include hospitalization), and when you expect the dose of opioids to return to, or below, the patient’s baseline dosage level; or
- You document reasonable attempts to obtain a consultation from a pain management specialist which have been unsuccessful, and in your clinical judgment the circumstances justify prescribing more than 120 mg MED per day without first obtaining the consult; or
- You document that your patient’s pain and function are stable and your patient’s dose of opioids in not escalating.

Is there any way I can become personally exempt from the mandatory consultation requirement of the pain rules?

Yes. The pain rules provide four (4) specific ways you can become exempt personally from the mandatory consultation requirement of the pain rules.¹⁸

You may become exempt from the mandatory consultation requirement if you:

- Are a pain management specialist; or
- You have successfully completed a minimum of twelve (12) hours of Category I CME on chronic pain management, which must include at least two (2) hours related to long-acting opioids, within the last two (2) years; or
- You are a pain management practitioner working in a multidisciplinary pain treatment center, or a multidisciplinary academic research facility; or
- You have a minimum of three (3) years of clinical experience in a chronic pain management facility where at least thirty (30) % of your practice has been the direct provision of pain management care.

Where can I go to get more information about the pain rules?

The rules for the management of chronic non-cancer pain may be found on the WSMA website, www.wsma.org, or on the Washington State Legislative website: <http://apps.leg.wa.gov/wac/default.aspx?cite=246-919>, and scroll down to “Pain Management,” starting with WAC 246-919-850.

¹⁸ WAC 246-919-862.

The MQAC has a web page devoted to the pain rules, which may be found at:
<http://www.doh.wa.gov/hsqa/mqac/PainManagement.htm>.

The Department of Health also has a web page devoted to the pain rules, which may be found at:
<http://www.doh.wa.gov/hsqa/Professions/PainManagement/>.

The University of Washington has developed a “Pain Medicine Provider Toolkit” which brings together a number of useful, informative, and important resources regarding the treatment of chronic pain and the pain rules. This toolkit may be found at:
<http://depts.washington.edu/anesth/education/pain/index.shtml>.

In addition, Physicians Insurance will be offering educational materials on the pain rules for physicians whom they insure. Check the PI website at: www.phyins.com.