



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION
PO Box 47866, Olympia, WA 98504-7866

April 19, 2011

Tim Layton, JD, MPA
Director of Legal Affairs
Washington State Medical Association
1800 Cooper Point Road SW Bldg. 7-A
Olympia, Washington 98502

Dear Tim,

We respectfully submit our reply to the WSMA's concerns regarding the rules for chronic noncancer pain. We address the issues listed in your e-mail correspondence of April 7, 2011.

1. Relooking at the definition of shall.

We have accepted the following definition. *"Shall" means a directive or an obligation to perform a specific action unless a contemporaneous medical record documents reasonable cause for deviating from the directive or obligation based on sound clinical judgment, concurrent clinical knowledge, and best available scientific evidence.*

2. Definition of chronic noncancer pain.

We will clarify the definition by adding, *this definition does not apply to care provided by a physician to a patient with chronic noncancer pain, where the treatment being provided (i) is specific in its scope and duration, not intended to manage the patient's chronic noncancer pain other than on a short-term basis as may be medically necessary for the specific treatment being provided, and satisfies best practices with regards to documentation and care within that physician's specialty or subspecialty; or (ii) consists of prescribing of non-long acting opioids at a stable, non-escalating, low dose which satisfies best practices with regard to documentation and care within that physician's specialty or subspecialty.*

3. Regarding implementation.

The Medical Quality Assurance Commission recognizes the need for appropriate dissemination of information and education regarding the rules. We are discussing the appropriate implementation period following final adoption of the rules. A time period of 6-12 months is being considered for the implementation process.



4. To further address concerns we will add to the preamble:

These rules are designed to assist practitioners in providing appropriate medical care for patients. They are not inflexible rules or rigid practice requirements and are not intended, nor should they be used, to establish a legal standard of care outside the context of the Medical Quality Assurance Committee's jurisdiction.

The ultimate judgment regarding the propriety of any specific procedure or course of action must be made by the clinician based on all the circumstances presented. Thus, an approach that differs from the rules, standing alone, does not necessarily imply that the approach was below the standard of care. To the contrary, a conscientious practitioner may responsibly adopt a course of action different from that set forth in the rules when, in the reasonable judgment of the practitioner, such course of action is indicated by the condition of the patient, limitations of available resources, or advances in knowledge or technology subsequent to publication of these rules. However, a practitioner who employs an approach substantially different from these rules is advised to document in the patient record information sufficient to justify the approach taken.

The practice of medicine involves not only the science, but also the art of dealing with the prevention, diagnosis, alleviation, and treatment of disease. The variety and complexity of human conditions make it impossible to always reach the most appropriate diagnosis or to predict with certainty a particular response to treatment.

Therefore, it should be recognized that adherence to these rules will not assure 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.

We are hopeful that this will satisfy the concerns of your membership. We remain committed to working with the physicians in our state as we complete this legislative mandate.

Sincerely,

Marilyn Pattison, MD

Marilyn (Mimi) Pattison, MD
1st Vice Chair