

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

SUNIL AGGARWAL, PhD, MD,

Petitioner.

NO.

FINAL ORDER ON PETITION FOR
INCLUSION OF NEUROPATHIC
PAIN AS A TERMINAL OR
DEBILITATING CONDITION
UNDER RCW 69.51A.010(4)

This matter came before the Medical Quality Assurance Commission (Medical Commission) on July 16, 2010 at the Puget Sound Educational service District, Blackriver Training and Conference Center, Renton, Washington, on the petition of Sunil Aggarwal, PhD, MD, for the inclusion of neuropathic pain as a terminal or debilitating medical conditions under RCW 69.51A. The Medical Commission, in consultation with the Board of Osteopathic Medicine and Surgery (Osteopathic Board), having considered the petition and the record in this matter, now issues the following:

I. FINDINGS OF FACT

1.1 On March 8, 2010, the Petitioner Dr. Sunil Aggarwal, on his own behalf and on behalf of the Cannabis Defense Coalition, filed a petition with the Medical Commission requesting that, pursuant to RCW 69.51A.070, the Medical Commission include neuropathic pain as “terminal or debilitating medical condition(s)” under RCW 69.51A.010(4)(g).

1.2 On June 2, 2010, at the Washington State Department of Health Offices in Tumwater, Washington, a public hearing was held before a panel consisting of three members of the Medical Commission and three members of the Osteopathic Board.

1.3 The Petitioner appeared personally, and presented written information and personal testimony in support of the petition.

1.4 In addition to other testimony, Petitioner stated that he felt that the limitations that the currently listed condition, “intractable pain, limited for the purpose of this chapter [RCW 69.51A] to mean pain unrelieved by standard medical treatments and medications” (RCW 69.51A.010(4)(b)), limits chronic pain patients from using marijuana as a first-line treatment.

1.5 Petitioner also testified that current research shows that cannabis, or cannabinoid botanicals have been shown to be equally effective as other first-line treatments for longstanding chronic neuropathic pain, such as gabapentin.

1.6 Petitioner also testified that he intended his petition to apply to neuropathic pain of all etiologies, including peripheral neuropathy, but that he did not intend to limit the petition to peripheral pain.

1.7 Public testimony was taken from members of the public. Written comments and information were also received from the public.

1.8 Expert testimony was provided by four expert witnesses at the public hearing, Dr. David J. Tauben, Department of Anesthesia and Pain Medicine, University of Washington School of Medicine; Dr. Gregory Carter, Department of Rehabilitation Medicine, University of Washington; Dr. Seth Thaler, Memorial Nephrology Associates, Olympia; and Dr. Eric B. Larson, Center for Health Studies, Group Health Cooperative. The expert witnesses answered questions from the members of the panel at the June 2, 2010 public hearing.

1.9 Dr. Tauben testified that the studies provided by the Petitioner were somewhat problematic in that they were short-term studies, for just a few conditions, and the number of patients studied was small. The results were promising but not conclusive, and that future research will better define the exact role of cannabinoids in the management of neuropathic pain.

1.10 Neuropathic pain is not a discretely defined condition. No entry for “neuropathic pain” was found in Dorland’s on-line medical dictionary or the MedlinePlus Merriam-Webster on-line medical dictionary.

1.11 Dr. Tauben supplied a definition of neuropathic pain which he stated would be an acceptable American Academy of Pain Management description as follows: “a painful state as a consequence of nerve injury or nerve dysfunction.” Dr. Tauben further opined that describing which states fit into this description would become more difficult, although a body of physicians providing consultative services may be able to provide a list of disorders that meet criteria for neuropathic pain.

1.12 Dr. Tauben also testified while it is difficult to precisely define neuropathic pain, that pain that persists of a neuropathic nature for a long period of time could be easily defined as intractable after having failed a very reasonable short trial of one or two or three lines of therapy, then be deemed intractable, then individuals would meet the criteria for a marijuana recommendation according to current guidelines.

1.13 Dr. Tauben did not recommend adding marijuana for neuropathic pain as a first-line treatment.

1.14 Dr. Greg Carter testified that evidence-based studies show that cannabis works for neuropathic pain and in his opinion marijuana should be approved as a first-line agent in the treatment of neuropathic pain but that he would limit it based on the method of administration and he did not think anyone should smoke anything, including tobacco or marijuana.

1.15 On June 18, 2010, the Osteopathic Board held a telephonic special public meeting to deliberate on the petition and to determine what recommendation, if any, it would make regarding the petition. The public was provided access to the meeting telephonically and in person at the Department of Health Offices in Tumwater, Washington. The Osteopathic Board considered the public hearing panel members' input and review of the record of the public hearing held on June 2, 2010, in making its recommendation. The Osteopathic Board voted to recommend that the petition be denied. The Osteopathic Board's recommendation was sent by letter to the Medical Commission.

1.16 On July 16, 2010, at the Medical Commission's regular public business meeting at the Blackriver Training and Conference Center, Renton, Washington, the Medical Commission deliberated on the petition to determine what recommendation, if any, it would make. The Medical Commission considered the written recommendation of the Osteopathic Board, the input of the Medical Commission's public hearing panel members and the record of the public hearing held on June 2, 2010, including the written comments and the public hearing transcript and made the determinations herein. The Medical Commission voted to issue a Final Order denying the petition on July 16, 2010.

1.17 There are short-term, evidence-based studies involving a small number of patients and conditions that show cannabis can be equally effective to other medications in treatment of some forms of neuropathic pain. Many of the conditions and patients in the studies had chronic intractable pain that would already be covered under the current approved condition in RCW 69.51A.010(4)(b). Expert testimony supported additional research and study of the use of cannabinoids in treatment of chronic neuropathic pain.

1.18 Unlike multiple sclerosis, cancer, glaucoma, or other discrete conditions already included as "terminal or debilitating medical conditions" for which marijuana is currently

approved in RCW 69.51A.010(4), the Petitioner and expert witnesses were unable to define the broad term “neuropathic pain” with specificity such that any clinical presentation of neuropathic pain, without limitation, would be clearly identified as a “terminal or debilitating medical condition” for which marijuana could be recommended as a first-line treatment.

1.19 The Medical Commission supports additional rigorous scientific randomized controlled clinical trials that have potential to demonstrate marijuana’s safety, effectiveness or efficacy in treatment of conditions resulting in chronic pain.

II. CONCLUSIONS OF LAW

2.1 The Medical Commission, in consultation with the Osteopathic Board has jurisdiction over this matter pursuant to RCW 69.51A.070.

2.2 In interpreting the information presented to it, the Medical Commission and Osteopathic Board utilized its expertise in evaluating the evidence presented and in weighing the potential risks and benefits of using marijuana to treat neuropathic pain.

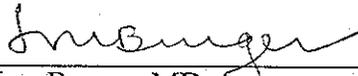
2.3 The Medical Commission, in consultation with the Osteopathic Board, has determined that, as described in the petition and public testimony, neuropathic pain is a broad term that can refer to many disorders having a broad range of patient-specific symptoms, effects, risks and responses to treatment. Many clinical presentations of neuropathic pain would already be approved as a “terminal or debilitating” because they are within the condition “intractable pain, limited for the purpose of this chapter [RCW 69.51A] to mean pain unrelieved by standard medical treatments and medications” (RCW 69.51A.010(4)(b)). Not all clinical presentations of neuropathic pain would be “terminal or debilitating conditions” and in its broadest definition, neuropathic pain could refer to any painful state as a consequence of nerve injury or nerve dysfunction regardless of degree of physical impairment or disability.

2.4 Neuropathic pain is an insufficiently precise term to meet the definition of a “terminal or debilitating medical condition(s)” under RCW 69.51A.010(4).

III. ORDER

The petition to add neuropathic pain as “terminal or debilitating medical condition(s)” for which medical use of marijuana may be recommended within the meaning of RCW 69.51A.010(4) is DENIED..

DATED this 26 day of August 2010.



Les Burger, MD
Chair

NOTICE TO PARTIES

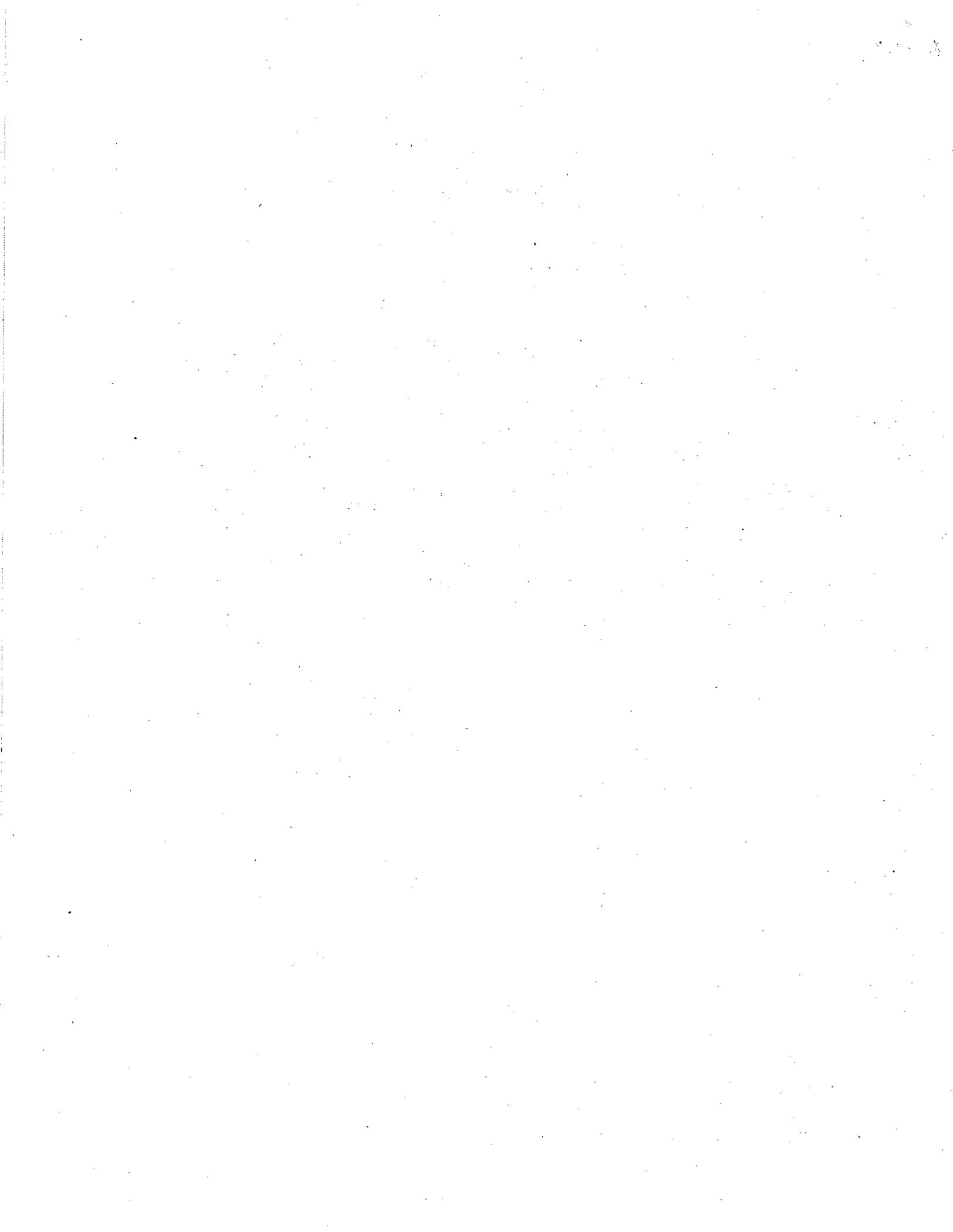
Either party may file a petition for reconsideration. RCW 34.05.461(3); 34.05.470. The petition must be filed within 10 days of service of this order with:

Medical Quality Assurance Commission
243 Israel Rd SE
P.O. Box 47866
Olympia, Washington, 98504-7866

The petition must state the specific grounds for reconsideration and what relief is requested. WAC 246-11-580. The petition is denied if the Medical Commission does not respond in writing within 20 days of the filing of the petition.

A petition for judicial review must be filed and served within 30 days after service of this order. RCW 34.05.542. The procedures are identified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. A petition for reconsideration is not required before seeking judicial review. If a petition for reconsideration is filed, the above 30-day period does not start until the petition is resolved. RCW 34.05.470(3).

The order is in effect while a petition for reconsideration or review is filed. "Filing" means actual receipt of the document by the Medical Commission. RCW 34.05.010(6). This order is "served" the day it is deposited in the United States mail. RCW 34.05.010(19).



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

In the Matter of

SUNIL AGGARWAL, PHD, MD

Petitioner

No.

DECLARATION OF SERVICE BY
MAIL

Under penalty of perjury under the laws of the state of Washington, I declare that the following is true and correct:

On August 31, 2010, I deposited in the United States mail, a properly addressed and stamped envelope containing a true and correct copy of the Final Order of Petition for Inclusion of Neuropathic Pain as a Terminal or Debilitating condition Under RCW 69.51A.040(4), on the following parties:

SUNIL AGGARWAL PHD, MD
CANNABIS DEFENSE COALITION
PO BOX 45622
SEATTLE, WA 98145

Debbie Sloan

DEBBIE SLOAN, LEGAL SECRETARY

Original filed with:
Department of Health
Adjudicative Clerk Office
Adjudicative Service Unit
P.O. Box 47879
Olympia, WA 98504-7879

