



Message from the Chair

The Federation of State Medical Boards (FSMB) with over 70 member medical and osteopathic boards and commissions from the 50 states, the District of Columbia, and several U.S. territories and international members, held its annual meeting in Seattle, WA. April 28-30th.

Since the meeting was held in our backyard, many of the commissioners and staff attended. There were several excellent keynote speakers, and many of the pressing issues facing us all, such things as maintenance of licensure, professionalism, developing a national data base of physician demographics, establishing an acceptable standard of care for the treatment of chronic non-cancer pain, and the electronic medical record, were addressed at one forum or another. Your Medical Quality Assurance Commission was an active participant at the meeting, and its proposed resolution was adopted by the House of Delegates at the business meeting held on April 30th. The resolution, dealing with sharing of information with the Department of Defense and other uniformed services reads, *“The Federation of State Medical Boards shall initiate dialogue and pursue a Memorandum of Understanding or other means with the Department of Defense Medical System and other uniformed health services to facilitate the sharing of information necessary to state medical and osteopathic boards in fulfilling their regulatory responsibilities.”*

At a luncheon on the last day of the meeting, Dr. Sam Selinger, the immediate past chair of the commission, and who just completed eight years of dedicated service on the commission, received the prestigious John H. Clark Leadership Award for his incredible efforts on the commission and in Spokane County in bringing health care to those in need. We were

privileged and honored to be there when Sam was recognized for all he has done to improve access and quality of health care to the citizens of our state.

On another front, the Washington State legislature passed, and the governor signed, a bill authorizing the commission to obtain demographic information from licensees at the time of license renewal. Such information is critical to being able to respond to statewide emergencies and for workforce planning as our state population continues to grow. Plans for gathering such data are underway, and we anticipate that by the fall you will receive a survey instrument along with your license renewal notice. Ultimately, this will all be accomplished on line, but we are probably a year or so away from that happening.

While summer approaches, the pace of activity remains high as your commission turns its attention

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Mission: The Medical Quality Assurance Commission protects public health and safety by assuring the competency and quality of physicians and physician assistants. The Commission establishes and monitors qualifications for licensure, and consistently enforces practice standards and professional conduct through discipline and continuing education.

from legislative issues to budget, while maintaining its focus on improving communication with all of you and with improving processes to expedite our work. We are approaching the last phases of rule development for the management of chronic non-cancer pain, which will be a subject of our next newsletter.

With best regards,

Dr. Leslie M. Burger, MD, FACP, Chair
Medical Quality Assurance Commission

Executive Director's Message

Developing Practice Information about Washington Physicians and Physician Assistants

Under new law, the Medical Quality Assurance Commission can ask physicians and physician assistants to respond to a survey about practice setting, specialty and board certification. This law goes into effect July 22, 2011.

Collecting data will help professional associations, hospitals, medical schools and other stakeholders identify physician and physician assistant practice patterns throughout the state. Beginning September 2011, the commission will include demographic questions with the renewal form. Licensees must send complete and accurate information.

Due to the staggered two-year license renewal schedule, it will take two years for the commission to collect responses and analyze the data. The data will identify physicians available for medical services in Washington, their specialty and the geographic areas they serve. The commission plans to have the data available by November 2013.

Maryella E. Jansen
Executive Director

Rules for Management of Chronic Noncancer Pain in Final Rulemaking Stages

Jim McLaughlin, JD, Staff Attorney

You may be aware that rules governing the management of chronic noncancer pain are on the way. In Substitute House Bill 2876, signed into law in March 2010, the legislature required the Medical Commission, as well as four other boards and commissions, to adopt rules governing chronic noncancer pain management. The boards and commissions must adopt these rules by June 30, 2011. The commission's rules are in the final rulemaking stages and will meet the legislative deadline.

What you should also know is that the commission will provide a *six-month implementation period* during which physicians and physician assistants can learn about the rules, make any adjustments necessary, and obtain any continuing education needed. In the meantime, the commission is developing educational tools about the rules themselves, as well as tools that will be helpful in complying with the rules and minimizing the impact on chronic pain patients and providers. *There is much more information to come.* As soon as the rules are finalized, each physician and physician assistant will receive a letter from the commission with more information about the rules and available resources.

Following the final rulemaking stages, to be completed no later than June 30, 2011, the commission will also create an interpretive statement. The goal of the interpretive statement will be to provide guidance regarding how the commission will apply the rules, and to alleviate potential physician and patient concerns about the rules. It is important to note that *the commission recognizes that patients in Washington need access to appropriate and effective pain relief. The commission does not want to negatively affect that access.* It is the commission's goal that the pain management rules provide clarity to an area of previous uncertainty, and in so doing encourage better pain management.

You can find the text of the rules adopted by the commission (with non-substantive changes pending), linked to our website, at:
<http://1.usa.gov/MQACpainrules>

The substance of these rules was developed by a Department of Health workgroup composed of representative members of the five boards and commissions overseeing practitioners with prescription authority. The workgroup created pattern rules. The pattern rules were developed at five public meetings with consideration of public testimony, the input of organizations with whom the boards and commissions were statutorily required to consult, and the review and consideration of hundreds of written comments. The pattern rules were adjusted to be appropriate for the Medical Commission, and these proposed rules were then the subject of a public rules hearing on March 2, 2011. Following that hearing, the commission voted to adopt the proposed rules, with non-substantive changes pending.

became a consulting internist with Group Health Cooperative in Kitsap County. He then entered into private practice in 1995. Representing the first congressional district, Governor Locke appointed Dr. Dore to the Medical Quality Assurance Commission in 2003 and Governor Gregoire reappointed him in 2007. During his service on the commission, he brought the perspective of an active, full-time private practice physician. For the past several years he has been the chair of hearing panel B. To complete his credentials, Dr. Dore is board certified in internal medicine, a 20 year veteran of ACLS instruction, a member of the American College of Physicians, and has been a “top-rated primary care physician” by Puget Sound Consumer Checkbook in 2006 and 2010. He received the 2007 Kitsap County American Red Cross Real Heroes Award for medical rescue, the Service Excellence award at Harrison Medical Center in 2008, and is a board member of the Fred H. and Mary S. Dore Charitable Foundation. He resides in Silverdale with his wife of nearly 30 years and has three college-age children.

Commissioner Spotlight:

Outgoing Members

The Medical Quality Assurance Commission wishes to take this opportunity to thank the following people for their outstanding commitment to the people of Washington and the advancement of the medical profession through their long and distinguished service.

Frederick Dore, Jr., MD, Congressional District 1 (Term expires June 2011)

Dr. Dore is a Seattle native. He is a graduate of the University of Washington and a 1984 graduate of Saint Louis University Medical School, where he received a Navy Medical Corps scholarship. Following his academic training, Dr. Dore specialized in internal medicine at Portsmouth Naval Hospital in Virginia and served an operational tour aboard the USS Milwaukee as a general medical officer. He then served as a staff internist at Bremerton Naval Hospital before entering the private sector. Dr. Dore achieved the rank of lieutenant commander. The Navy awarded him the Navy Achievement Medal twice during his service. Beginning in 1991, Dr. Dore

Judith M. Page, JD, Public Member (Term expires June 2011)

Judith M. Page grew up in the state of New Mexico and received her BA in Sociology and Spanish from the University of New Mexico, with a yearlong course of study at the University of Madrid in 1971. Following her relocation to Spokane in 1978, she attended Gonzaga Law School where she graduated cum laude in 1994 with Am Jur Awards in Wills, Trusts, and Legal Writing. Post graduation, Mrs. Page began work as a Deputy Prosecuting Attorney with the Spokane County Prosecuting Attorney’s Office and quickly moved to the Washington State Attorney General’s Office as an Assistant Attorney General in 1996. In 2002, Mrs. Page began work with Eastern Washington University and then transitioned to private practice with the law firm of Beemer & Mumma in Spokane in 2004, where she specializes in workers’ compensation litigation.

In 2003, Governor Locke appointed Mrs. Page to the Washington State Medical Quality Assurance Commission and Governor Gregoire reappointed her in 2007. Mrs. Page resides in Spokane, is married, and is the mother to three adult children.

Commissioner Spotlight continued on page 4

Anthony Robins, MD, Physician at Large (Term expires June 2011)

Dr. Robins is High Honors graduate of the University of Washington School of Medicine and completed his residency in Orthopedic Surgery at the University of Utah. He received additional training with a fellowship in arthritis and joint replacement at the University of California at San Diego. Dr. Robins has enjoyed a successful orthopedic surgery practice and is certified by the American Board of Orthopedic Surgeons. He is a reviewer and moderator for the Orthopedic Research Society, Journal of Orthopedic Research, and is a clinical faculty member in the Department of Orthopedics and Sports Medicine at the University of Washington in Seattle, WA. Dr. Robins is a consultant to several biotech companies, and Chief Medical Officer for Ivivi Orthopedic Health, Inc., in Seattle. Originally from western Montana, Dr. Robins is an avid outdoorsman and enjoys fly-fishing in the Yakima River area.

Judy Tobin, Public Member (Term expires June 2011)

Judy Tobin has been involved with boards and commissions for nearly three decades, joining the Board of Directors of the Pike Place Market Medical Clinic in 1984 and serving as Board Chair from 1990 to 1994. She was a member of the Pike Place Market PDA, serving on the Executive Committee from 1990 to 1997. In 1999 she was appointed by the Mayor of Seattle to the Seattle Center Advisory Commission and served as chair until the term ended in 2005. She has been a member of the Board of Trustees of the Wing Luke Museum and has served on the Executive Committee from 2002 to its present. She was appointed to the Washington State Medical Quality Assurance Commission by Governor Locke in 2004 and has worked with staff and commissioners who are hardworking and totally dedicated to serving the public and protecting the integrity of the medical profession.

Recently Amended Retired Active Physician Rules

Second Substitute House Bill 1899 (Chapter 403, Laws of 2009) directed the commission to consider amending its rules on retired active physicians in a manner that improved health care services for the citizens of Washington State without compromising public safety.

The commission reviewed its rules and determined that amending the existing rules was appropriate. Amendments to Washington Administrative Code (WAC) 246-919-010 and WAC 246-919-480 went into effect on March 10, 2011. The amended rules afford the retired active physician more flexibility in the practice setting:

- They can practice in other specialties besides primary care
- They are no longer limited to practicing 90 days in a calendar year
- May volunteer his/her services in emergent or intermittent circumstances
- May not receive compensation for health care services.

“Emergent” and “intermittent” circumstances are now defined in the rule definitions.

The commission determined that physicians with a retired active license must renew every two years and report 100 hours of continuing medical education (CME) at every renewal. Physicians treating patients in this state must keep up with the emerging standards of practice in their specialties in order to provide the best possible care to their patients. This last point concerning CME requirements generated a great deal of discussion. In the end, it was determined that having a different standard for physicians with an active license versus a retired active license would not be appropriate. Time will tell if this new rule and the legislation adopted July 26, 2009 will entice more retired physicians to continue to practice in some capacity. We hope so in the light of health care reform.

Administrative Actions

January 1, 2011 – March 31, 2011

Below are summaries of interim suspensions and final actions taken by the commission last quarter. We did not list Statements of Charges, Notices of Decision on Application, Modifications to Orders and Termination Orders. You can find all orders on the Department of Health's website: <https://bit.ly/WADoHcredsearch>

Calderon, Thomas A., MD (MD00036406)
Whatcom County, WA

Stipulation to Informal Disposition. Respondent allegedly failed to meet the standard of care in treating a patient. Respondent does not admit to unprofessional conduct. Respondent agreed to a probationary period during which he will complete CME and will write a paper on the evaluation of abdominal pain in elderly patients. March 23, 2011.

Frankwick, Dawn M., MD (MD00025592)
King County, WA

Stipulation to Informal Disposition. Respondent allegedly failed to meet the standard of care in treating a patient. Respondent does not admit to unprofessional conduct. Respondent agreed to a probationary period during which she will complete CME and in cases in which Respondent cannot identify a fetal heart rate or confirm a pregnancy, Respondent will refer the patient for a formal ultrasound. March 3, 2011.

Garner, William B., MD (MD60024607)
Texas

Stipulation to Informal Disposition. Respondent allegedly obtained controlled substances through fraudulent prescriptions and self-administered the medication. Respondent does not admit to unprofessional conduct. Respondent agreed to a probationary period during which he must comply with a contract with the Washington Physicians Health Program. March 21, 2011.

Greene, Steven L., MD (MD00021536)
King County, WA

Stipulation to Informal Disposition. Respondent allegedly performed a physical examination without explaining his actions beforehand, and failed to provide the patient privacy to undress. Respondent does not admit to unprofessional conduct. Respondent agreed to a probationary period during which he will have a chaperone present for the examination of female patients, develop a written protocol for the examination of female patients and write a paper on the examination of female patients who are required to remove clothing or when the examination involves the breasts or genitalia. March 23, 2011

Haining, Robert M., MD (MD00008934)
King County, WA

Stipulated Findings of Fact, Conclusions of Law and Agreed Order. Respondent failed to conform to the standard of care in treating two patients. Respondent agreed to a probationary period during which he will, among other things, complete CME and establish a preceptor for his nursing home practice. March 3, 2011.

Holdren, Cynthia C., MD (MD00019088)
King County, WA

Stipulation to Informal Disposition. Respondent allegedly failed to meet the standard of care in treating a patient. Respondent does not admit to unprofessional conduct. Respondent agreed to a probationary period during which she will complete CME and will develop a protocol addressing the advising, observation and monitoring of patients post-epidural steroid injections. March 3, 2011.

Hudson, Leonard D., MD, (MD00010900)
King County, WA

Stipulated Findings of Fact, Conclusions of Law and Agreed Order. Respondent had sexual contact with a patient, provided controlled substances to the patient without examining the patient and documenting his treatment, and violated drug laws. Respondent agreed to surrender his license to practice medicine. January 20, 2011.

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Hunt, Kenneth I, MD (MD00012628)
Grays Harbor County, WA

Stipulated Findings of Fact, Conclusions of Law and Agreed Order. Respondent failed to comply with a commission order that required him to comply with a contract with the Washington Physicians Health Program. Respondent agreed to a suspension of his license to practice medicine. March 3, 2011.

Jacobson, Robert L., MD (MD00025697)
Snohomish County, WA

Stipulation to Informal Disposition. Respondent allegedly failed to meet the standard of care in treating a patient. Respondent does not admit to unprofessional conduct. Respondent agreed to write a report on the interpretation of and inter-office communication about laboratory test results. January 20, 2011.

Keyser, Kathleen, PA-C (PA10003819)
King County, WA

Stipulation to Informal Disposition. Respondent allegedly used a controlled substance without a proper prescription. Respondent does not admit to unprofessional conduct. Respondent agreed to a probationary period during which she must comply with a contract with the Washington Physicians Health Program. March 3, 2011.

Khurtsidze, Gregory G., MD (MD00042032)

Stipulation to Informal Disposition. Respondent allegedly failed to meet the standard of care in treating a patient. Respondent does not admit to unprofessional conduct. Respondent agreed to a probationary period during which he will complete CME and write a paper on the diagnosis and treatment of myocardial infarction. January 20, 2011.

Kim, Gwang, MD (MD00030888)
South Korea

Findings of Fact, Conclusions of Law and Order of Default. Respondent failed to cooperate with an investigation by failing to respond to letters from an investigator. The Commission suspended Respondent's license to practice medicine. January 10, 2011.

Kwon, Andrew O., MD (MD00034844)
Pierce County, WA

Stipulated Findings of Fact, Conclusions of Law and Agreed Order. Respondent failed to meet the standard of care in treating a patient. Respondent agreed to complete CME in prescribing narcotics for pain. January 20, 2011.

Luu, Huong T., MD (MD00030582)
Clark County, WA

Stipulation to Informal Disposition. Respondent allegedly failed to meet the standard of care in treating a patient. Respondent does not admit to unprofessional conduct. Respondent agreed to a probationary period during which he agreed to several conditions for the treatment of chronic, non-cancer pain, including a prohibition on treating such patients under the age of 18, maintaining an accurate prescription log, obtaining records from the primary care provider of each patient, having a pain contract for each such patient, and having his medical records typed. January 20, 2011.

McCreery, Joseph, MD (MD00021271)
King County, WA

Stipulated Findings of Fact, Conclusions of Law and Agreed Order. Respondent failed to meet the standard of care in treating a patient. Respondent agreed to a probationary period during which he will, among other things, complete an ethics course and appear before the commission annually. March 3, 2011.

Did you know?

You can check the status of any license holder in the state of Washington? You can also view the legal documents if the license has had action against it.

Try it now: <https://bit.ly/WADoHcredsearch>

Oh, Ki, MD (MD00027211)
King County, WA

Stipulation to Informal Disposition. Respondent allegedly failed to meet the standard of care in treating a patient. Respondent does not admit to unprofessional conduct. Respondent agreed to a probationary period during which he agreed to complete CME on work up and testing of liver and abdominal radiologic abnormalities, write a paper and prepare a protocol. March 30, 2011.

Sorensen, Ronald B., MD (MD00038461)
Canada

Stipulation to Informal Disposition. Respondent allegedly had his practice restricted in Ontario, Canada. Respondent does not admit to unprofessional conduct. Respondent agreed that he would be prohibited from performing female urethral dilation procedures in Washington as well. February 16, 2011.

Thomas, Frank E., MD (MD00014153)
Chelan County, WA

Stipulation to Informal Disposition. Respondent allegedly resigned his privileges with a medical center. Respondent does not admit to unprofessional conduct. Respondent surrendered his license to practice medicine. March 3, 2011.

Thompson, Robert K., MD (MD00011365)
Thurston County, WA

Stipulation to Informal Disposition. Respondent allegedly is unable to practice with reasonable skill and safety. Respondent does not admit to unprofessional conduct. Respondent surrendered his license to practice medicine. January 20, 2011.

Valenzuela, Eduardo R., PA-C (PA10004788)
Oregon

Stipulated Findings of Fact, Conclusions of Law and Agreed Order. Respondent surrendered his license to practice medicine in the state of Oregon. Respondent agreed his license to practice medicine in the state of Washington is suspended. March 3, 2011.

Weaver, Lewis C., MD (MD00034036)
Spokane County, WA

Stipulation to Informal Disposition. Respondent allegedly failed to meet the standard of care in treating a patient. Respondent does not admit to unprofessional conduct. Respondent agreed to a probationary period during which he will write a paper on the diagnosis and treatment of infectious arthritides. March 3, 2011.

Wilson, Robert A., MD (MD00032057)
San Juan County, WA

Stipulated Findings of Fact, Conclusions of Law and Agreed Order. Respondent had a sexual relationship with a patient, failed to meet the standard of care in treating the patient, and revealed confidential health care information. Respondent agreed to a probationary period in which he must, among other things, undergo a psychological evaluation, follow the recommendations of the evaluator, employ a chaperone for examinations of female patients, and take an ethics course. March 3, 2011.

Yarnall, Stephen R., MD (MD00008510)
Snohomish County, WA

Stipulation to Informal Disposition. Respondent allegedly failed to comply with a commission order. Respondent does not admit to unprofessional conduct. Respondent surrendered his license to practice medicine. March 3, 2011.

Young, John J., MD (MD00047197)
King County, WA

Stipulation to Informal Disposition. Respondent allegedly wrote a prescription for a controlled substance for himself. Respondent does not admit to unprofessional conduct. Respondent agreed to a probationary period in which he will not self-prescribe, he will obtain a primary care provider, and take an ethics course. January 20, 2011.

Join our legal listserv for twice monthly updates on administrative actions: <http://bit.ly/MQAClegal>

Definitions:

Stipulated Findings of Fact, Conclusions of Law and Agreed Order — a settlement resolving a Statement of Charges. This order is an agreement by a licensee to comply with certain terms and conditions to protect the public.

Stipulated Findings of Fact, Conclusions of Law and Final Order — an order issued after a formal hearing before the commission.

Stipulation to Informal Disposition (STID) — a document stating allegations have been made, and containing an agreement by the licensee to take some type of remedial action to resolve the concerns raised by the allegations.

Ex Parte Order of Summary Suspension — an order summarily suspending a licensee's license to practice. The licensee will have an opportunity to defend against the allegations supporting the summary action.

Physician and Physician Assistant Notification and the Investigations Process

James H. Smith, Chief Investigator

When a complaint concerning a physician or physician assistant is made to the Medical Quality Assurance Commission, the complaint is reviewed by a panel of the commission at a weekly assessment meeting. The panel assesses the complaint and decides whether to investigate or close below threshold.

When a complaint is closed below threshold the physician or physician assistant is notified that a complaint was received but closed because the complaint did not meet the commission's criteria to investigate. An example may be a billing complaint, a complaint about an issue which is not a violation of the law or an aged or dated complaint. Approximately 25% of all complaints are closed below threshold. If a

physician desires any information concerning the nature of a below threshold complaint requests must be made through the Department of Health's Public Disclosure and Records Center (PDRC) PDRC@doh.wa.gov. PDRC contact information is provided in each below threshold closure letter.

Complaints which are referred for investigation are subject to the requirements of the Revised Code of Washington (RCW), 18.130.095, Uniform procedural rules. This law requires that a physician or physician assistant "must be notified upon receipt of a complaint, except when the notification would impede an effective investigation." The law also states "At the earliest point of time the license holder must be allowed to submit a written statement about that complaint, which statement must be included in the file." Due to the requirements of this law, a notification letter is sent to the physician or physician assistant following authorization for investigation by the assessment panel.

The notification letter identifies the specific subsection of the Uniform Disciplinary Act under which the investigation was authorized, for example, RCW 18.130.180(4), incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. A copy of RCW 18.130.180, Unprofessional Conduct, is included with each notification letter so that the subsection(s) of the law under which the case was opened is known to the physician or physician assistant.

Since the notification letter indicates that the physician or physician assistant can submit a written statement, why doesn't the notification letter identify the complainant and give specifics about their allegation? RCW 43.70.075, identity of whistleblower protected, prohibits the commission from releasing any information which may identify the complainant. Specifically, the law provides that "the identity of a whistleblower who complains, in good faith, to the Department of Health about the improper quality of care by a health care provider ... shall remain confidential."

A whistleblower is defined as a "consumer, employee, or health care professional who in good faith reports alleged quality of care concerns to the Department of Health." In the vast majority of complaints, the complainant or consumer is the patient or the

patient's family. Commission attorneys have opined that this right to confidentiality can be waived.

The commission must contact the complainant and obtain a confidentiality waiver prior to revealing the complainant's identity and investigating the complaint. Complainants are sent acknowledgement letters and confidentiality waivers the same day notification letters are sent to physicians and physician assistants. How quickly the confidentiality waiver is returned is dependent on the responsiveness of the complainant.

The Medical Quality Assurance Commission has two investigation offices, one located in Tumwater and one in Spokane. The commission employs 10 healthcare investigators; 4 physician assistants, 3 nurses and 3 non-clinical health care investigators. Once the confidentiality waiver is received from the complainant, the case is assigned to a healthcare investigator. Investigators are assigned based on the nature and location of the complaint. The investigator contacts the complainant, reviews the complaint and provides the complainant with the opportunity to supplement their complaint or add any additional information they may have. The investigator also contacts the physician or physician assistant, provides the details of the complaint, requests a written response to the complaint as well as copies of all relevant medical records. The physician or physician assistant is also asked to provide any information that they feel may be relevant to the complaint. Additional witnesses may be contacted and additional records gathered.

A report is written and the case file is then submitted to the commission for review and decision. Investigations can take six months or longer depending on the nature and complexity of the investigation, the responsiveness of the parties involved and the investigative workload.

I can be contacted at 360-236-2770 or through e-mail at jim.smith@doh.wa.gov should you have any questions.

Should you Treat Yourself or Immediate Family Members?

Mike Farrell, JD, Legal Manager

Dr. Richard Brantner, MD

(Congressional District 9)

Many physicians and physician assistants at some point in their careers have treated themselves or immediate family members. The Medical Quality Assurance Commission issued a policy statement, based on Opinion 8.19 of the American Medical Association (AMA) Code of Ethics, listing several reasons why this is generally not a good idea:

- Professional objectivity may be compromised; the practitioner's personal feelings may influence medical judgment, thereby interfering with the care being delivered.
- Practitioners may fail to probe sensitive areas when taking a history or may fail to perform a complete physical.
- Patients may feel uncomfortable disclosing sensitive information or undergoing an intimate examination.
- Practitioners may be inclined to treat problems beyond their expertise or training.
- Tensions can develop because of a negative medical outcome and carry over into the family relationship.
- Family members may be reluctant to state their preference for another practitioner or decline a recommendation for fear of offending the practitioner.
- Practitioners may feel obligated to provide care to family members even if they feel uncomfortable providing care.

A practitioner may be justified in treating him or herself or an immediate family member under certain circumstances. In an emergency or if there is no other qualified practitioner available, a practitioner may self-treat or treat an immediate family member until another practitioner becomes available. In addition, while one should not serve as a primary care provider for immediate family members, there are situations in which routine care is acceptable for short-term, minor problems.

While this policy does not have the force of law, the commission has disciplined several practitioners for treating themselves or family members where the practitioner failed to properly document the treatment, prescribed controlled substances, or otherwise created an unreasonable risk of harm.

The bottom line:

- Do not treat immediate family members except in an emergency or for routine, short-term, minor problems.
- Document the treatment.
- Try to avoid prescribing controlled substances for family members.
- Do not prescribe controlled substances for yourself; it is illegal.

You can get a copy of the policy statement at:

<http://1.usa.gov/MQACSelfTreat>

For Health Care Practitioners! HIPAA Exemption for American Red Cross

The American Red Cross (ARC) is charged with providing emergency communication services for military families and service members and women in the line of duty. With many emergency messages involving health issues (deaths, births, surgeries, etc.), we need to verify a patient's condition, cause of illness/death and obtain a "Doctor's Information Statement" including condition, prognosis, life expectancy, and diagnosis. This information can be obtained from any medical personnel involved in the care of a patient (doctor, nurse, or office manager). This information is vital to the sending of an emergency message by the ARC. In any case, the information we gather is strictly used for sending an emergency communication and is kept otherwise confidential.

Recognizing such, the Department of Health and Human Services (H&HS) created an exemption to the HIPAA regulations allowing doctors, or their representative, to share information about a patient with the American Red Cross for the purposes of providing emergency communications.

This exemption is provided under 45 CFR 164.510(b) (1) (ii) and 45 CFR 164.510(b) (3). This information is also provided on the H&HS website at <http://answers.hhs.gov>. The exemption reads as follows:

The HIPAA Privacy Rule permits a covered doctor or hospital to disclose protected health information to a person or entity that will assist in notifying a patient's family member of the patient's location, general condition, or death. See 45 CFR 164.510(b) (1) (ii). The patient's written authorization is not required to make disclosures to notify, identify, or locate the patient's family members, his or her personal representatives, or other persons responsible for the patient's care. Rather, where the patient is present, or is otherwise available prior to the disclosure, and has capacity to make health care decisions, the covered entity may disclose protected health information for notification purposes if the patient agrees or, when given the opportunity, does not object. The covered entity may also make the disclosure if it can reasonably infer from the circumstances, based on professional judgment that the patient does not object. See 45 CFR 164.510(b) (2).

Even when the patient is not present or it is impracticable because of emergency or incapacity to ask the patient about notifying someone, a covered entity can still disclose a patient's location, general condition, or death for notification purposes when, in exercising professional judgment, it determines that doing so would be in the best interest of the patient. See 45 CFR 164.510(b) (3).

Under these circumstances, for example, a doctor may share information about a patient's condition with the ARC to provide emergency communications services for members of the U.S. military, such as notifying service members of family illness or death, including verifying such illnesses for emergency leave requests.

MQAC Vital Statistics

- The commission is currently participating in a 5-year pilot project to measure performance and efficiency.
- 21 members: 13 MDs, 2 PAs, 6 public members.
- 35 staff, \$13M biannual budget.
- The commission currently licenses 28,797 physicians and physician assistants.
- 90% of investigations completed on time in 2010.
- Reduced investigative aged-case backlog by 75%.
- Reduced legal aged-case backlog by 50%.
- Followed legislatively-mandated disciplinary sanction rules in 99% of disciplinary orders.

Actions in 2010

- Issued 2106 new licenses
- Received 1374 complaints/reports
- Investigated 950 complaints/reports
- Issued 80 disciplinary orders
- Summarily suspended or restricted 14 licenses
- Actively monitoring 170 practitioners

Policy Corner

At the June 3, 2011 Business Meeting the commission approved the following policies:

- Consent Agenda MD2011-06
- Processing Completed Investigations More Efficiently MD2011-07

To view the most current policies and guidelines for the commission, please visit our website:

<http://1.usa.gov/MQACpolicies>

Do you have ideas or suggestions for future commission newsletters? Is there something specific that you think we should address or include?

Please submit suggestions to:
micah.matthews@doh.wa.gov

Recent Licensee Congratulations

The Washington State Medical Quality Assurance Commission wishes to congratulate and welcome all of the recent licensees to the state.

A list of recent licensees will be updated quarterly on the commission website and may be found at the following web address:

<http://1.usa.gov/RecentMDPA>

Medical Quality Assurance Commission Meetings 2011–2012

Date	Activity	Location
August 24 – 26	Workshop	DOH – Point Plaza East 310 Israel Rd Rm 153 Tumwater, WA 98501
September 29 – 30	Regular Meeting	Puget Sound Educational Service District (PSESD) Blackriver Training & Conference Center 800 Oakesdale Ave SW Renton, WA 98057
November 17 – 18	Regular Meeting	DOH – Point Plaza East
January 12 – 13, 2012	Regular Meeting	PSESD

Other Meetings

September 9 – 11, 2011 WSMA Annual Meeting Spokane, WA

All MQAC meetings are open to the public.



Washington State Department of Health
 Medical Quality Assurance Commission
 PO Box 47866
 Olympia, WA 98504-7866

The law requires each practitioner to maintain a current name and address with the department. Please submit address changes and appropriate documentation for name changes to:
medical.commission@doh.wa.gov

Medical Quality Assurance Commission

- Applications/Renewals:** A-L 360-236-2765
 M-Z 360-236-2767
- Continuing Education:** 360-236-2766
- Complaints:** 360-236-2762
- Complaint Form:** <http://bit.ly/MDPAcomplaints>
- Discipline:** 360-236-2764
- Investigations:** 360-236-2770
- Fax:** 360-236-2795
- E-mail:** medical.commission@doh.wa.gov
- Website:** <http://doh.wa.gov/hsqa/MQAC>
- Public Disclosure:** PDRC@doh.wa.gov
- Provider Credential Search:** <https://bit.ly/WADoHcredsearch>
- Listserv Sign-up Links:**
 - Minutes and Agendas: <http://bit.ly/MQACminutes>
 - Rules: <http://bit.ly/MQACruleslist>
 - Legal Actions: <http://bit.ly/MQAClegal>
 - Newsletter: <http://bit.ly/MQACnewsletters>

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