

WAC 296-20-01100 Risk of harm. (1) It is the intent of the department, through authority granted by RCW 51.36.010 to protect workers from physical or psychiatric harm by identifying, and taking appropriate action, including removal of providers from the statewide network, when:

- (a) There is **harm**; and
- (b) There is a **pattern(s) of low quality care**; and
- (c) The harm is related to the pattern(s) of low quality care.

(2) It is not the intent of the department to remove or otherwise take action when providers are practicing within department policies and guidelines, or within best practices established or developed by the department, or established in collaboration with its industrial insurance medical and chiropractic advisory committees.

(3) The department may permanently remove a provider from the statewide network or take other appropriate action when that provider's treatment of injured workers exhibits a **pattern or patterns** of conduct of **low quality care** that exposes patients to a risk of physical or psychiatric **harm** or death.

(4) **Harm** is defined as (intended or unintended) physical or psychiatric injury resulting from, or contributed to, by health care services that result in the need for additional monitoring, treatment or hospitalization or that worsens the condition(s), increases disability, or causes death. Harm includes increased, chronic, or prolonged pain or decreased function.

(5) **Pattern or patterns** of low quality care is/are defined as including one or more of the following:

(a) For health services where the department can calculate normative data on frequency, a provider's cases are in the lowest decile (at or below the tenth percentile); or

(b) For health services where the department cannot calculate normative data on frequency, at least twenty percent of requested or conducted services meet the definition of low quality care; or

(c) For health services where department data or scientific literature has reported expected rates of adverse events, a provider's adverse event rates are at least twenty percent above the expected rate; or

(d) A review of a random sample of the provider's cases demonstrates that at least twenty percent of cases do not meet peer matched criteria for acceptable quality; or

(e) Two or more deaths or life-threatening events; or

(f) Provider behavior(s) and/or practices that result in revocation or limitation of hospital privileges or professional licensure sanctions.

(6) **Low quality care in the statewide workers' compensation network is defined as treatments or treatment regimens:**

(a) That have not been shown to be safe or effective or for which it has been shown that the risks of harm exceed the benefits that can reasonably be expected, based on available peer-reviewed scientific studies; or

(b) That uses diagnostic tests or treatment interventions not in compliance with the department's policies, the department's applicable utilization review criteria, or the department's guidelines; or

(c) That includes repeated unsuccessful surgical or other invasive procedures; or

(d) That is outside the provider's scope of practice or training;
or

(e) That results in revocation or limitation of hospital privileges or in professional licensure sanctions; or

(f) That fails to include or deliver appropriate and timely health care services as identified in available department guidelines or policies; or

(g) That includes repetitive provision of care that is not curative or rehabilitative per WAC 296-20-01002 for extended periods that does not contribute to recovery, return to work, or claim resolution; or

(h) That includes repeated testing including, but not limited to, routine use of a diagnostic test or procedure by either the provider prescribing or the provider performing the test, when any of the following apply:

(i) The test(s) have been demonstrated to be unsafe or of poor quality; or

(ii) High quality, peer-reviewed scientific studies do not show that the test has the technical capacity (reliable and valid) and accuracy to result in successful clinical outcomes for their intended use (utility); or

(iii) The test is conducted or interpreted in a manner inconsistent with high quality evidence-based clinical practice guidelines; or

(iv) The test is likely to lead to treatment that does not meet department guidelines or policies or is otherwise harmful.

[Statutory Authority: RCW 51.36.010, 51.04.020, and 51.04.030. WSR 12-02-058, § 296-20-01100, filed 1/3/12, effective 2/3/12.]