

acute perioperative pain in nursing homes licensed under chapter 18.51 RCW or chapter 388-97 WAC, Nursing homes, and LTACs.

Reasons Supporting Proposal: Pursuant to a legislative mandate, ESHB 2876 (chapter 209, Laws of 2010), the commission adopted rules in 2012 for the management of chronic, noncancer pain. These rules did not apply to the management of cancer-related pain or acute pain caused by an injury or surgical procedure. In 2017, the legislature enacted ESHB 1427, requiring the commission to adopt rules establishing requirements for prescribing opioid drugs. The adopted rules apply to the prescribing of opioids for the treatment of pain, including acute nonoperative, acute perioperative, subacute, and chronic pain.

There are certain types of pain management treatments excluded from the rules, including hospital patients receiving inpatient treatment for more than 24 hours. The commission recognizes that patients in nursing homes and LTACs are typically high acuity and are similarly situated to hospital patients receiving inpatient treatment. However, there is no specific exclusion for pain treatment of patients in nursing homes or LTACs.

Proper pain management is required by RCW 74.42.140 in nursing home and LTAC settings and is necessary for patient quality of life. Nursing homes and LTACs are not outpatient settings and medications are not controlled or handled by patients. When a patient is admitted to a nursing home from a hospital, a nursing home is required by WAC 388-97-1000 and RCW 74.42.150 to document that patient's history, physical examination results, and health care provider's orders for care. Often, nursing home patients are admitted with a limited prescription of pain medications. Similarly, LTACs are hospital settings designed for longer-term treatment, and patients receive 24-hour clinical care.

Patients admitted to nursing homes and LTACs are continuing their treatment protocol as applied when they were in an inpatient hospital setting. The current rules require an attending provider at a nursing home or LTAC to collect a patient history and conduct a physical examination prior to prescribing opioids, as well as consult the prescription monitoring program. An attending provider may not be able to immediately perform a new history and physical to authorize a prescription to continue pain management. This disrupts the continuity of pain management and may jeopardize the quality of care in nursing home or LTAC settings.

The proposed amendments to WAC 246-840-463 and 246-840-4659 clarify the application of the advanced practice pain management rules in nursing homes and LTACs.

Statutory Authority for Adoption: RCW 18.79.010, 18.79.110, and 18.79.250.

Statute Being Implemented: RCW 18.79.010, 18.79.110, and 18.79.250.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

Name of Proponent: Nursing care quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Jessilyn Dagum, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-3538; and Enforcement: Catherine Woodard, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4757.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Jessilyn Dagum, P.O. Box 47864, Olympia, WA 98504-7864, phone 360-236-3538, fax 360-236-4738, TTY 711, email NCQAC.Rules@doh.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

April 3, 2023

Paula R. Meyer, MSN, RN, FRE

Executive Director

Nursing Care Quality Assurance Commission

OTS-3981.3

AMENDATORY SECTION (Amending WSR 18-20-086, filed 10/1/18, effective 11/1/18)

WAC 246-840-463 Exclusions. WAC 246-840-460 through 246-840-4990 do not apply to:

- (1) The treatment of patients with cancer-related pain;
- (2) The provision of palliative, hospice, or other end-of-life care;
- (3) The treatment of inpatient hospital patients; or
- (4) Procedural premedications.
- (5) The treatment of patients in nursing homes licensed under chapter 18.51 RCW or 388-97 WAC, nursing homes and long-term acute care hospitals (LTACs).

[Statutory Authority: RCW 18.79.800 and 2017 c 297. WSR 18-20-086, § 246-840-463, filed 10/1/18, effective 11/1/18. Statutory Authority: RCW 18.79.400. WSR 11-10-064, § 246-840-463, filed 5/2/11, effective 7/1/11.]

AMENDATORY SECTION (Amending WSR 18-20-086, filed 10/1/18, effective 11/1/18)

WAC 246-840-4659 Patient evaluation and patient record—Acute.

Prior to prescribing an opioid for acute nonoperative pain or acute perioperative pain, the advanced registered nurse practitioner shall:

- (1) Conduct and document an appropriate history and physical examination including screening for risk factors for overdose and severe postoperative pain; or
- (2) Consider the discharge facility's history and physical examination an appropriate history and physical examination to allow timely prescribing of needed medications for acute nonoperative pain or acute perioperative pain in nursing homes licensed under chapter 18.51 RCW

or 388-97 WAC, nursing homes and long-term acute care hospitals (LTACs);

(3) Evaluate the nature and intensity of the pain or anticipated pain following surgery; and

~~((3))~~ (4) Inquire about any other medications the patient is prescribed or is taking including type, dosage, and quantity prescribed.

[Statutory Authority: RCW 18.79.800 and 2017 c 297. WSR 18-20-086, § 246-840-4659, filed 10/1/18, effective 11/1/18.]