



# EXPEDITED RULE MAKING

## CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON  
FILED

DATE: September 17, 2019

TIME: 10:02 AM

WSR 19-19-071

**Agency:** Department of Health- Medical Quality Assurance Commission

**Title of rule and other identifying information:** (describe subject) WAC 246-918-005, 246-918-800, and 246-918-895 Physician Assistants--Medical Quality Assurance Commission. The Washington Medical Commission (commission) is proposing amending WAC 246-918-005, 246-918-800, 246-918-895 to change all references to Medical Quality Assurance Commission to Washington Medical Commission in accordance with Senate Bill (SB) 5764 (chapter 55, Laws of 2019).

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** SB 5764 was passed and signed into law during the 2019 legislative session. The bill amends RCW 18.50.115, 18.71.002, 18.71.010, 18.71.015, 18.71A.010, 18.71A.020, 18.130.040, 18.360.030, 69.41.030, 69.50.402, 69.51A.300, 70.41.200, 70.41.230, 70.230.080, 70.230.130, 70.230.140, 74.09.290, and 74.42.230; and reenacts and amends RCW 69.45.010 and 69.50.101 to change all references to Medical Quality Assurance Commission to Washington Medical Commission. The proposal changes all references in the existing rules.

**Reasons supporting proposal:** Rulemaking is necessary to comply with SB 5764. The proposed rules only change Medical Quality Assurance Commission to Washington Medical Commission without changing its effect.

**Statutory authority for adoption:** RCW 18.71.017, 18.130.050, chapter 18.71A RCW, SB 5764

**Statute being implemented:** RCW 18.71.017, SB 5764 (chapter 55, Laws of 2019)

**Is rule necessary because of a:**

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

**Name of proponent:** (person or organization) Washington Medical Commission

Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
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**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None

**Expedited Adoption - Which of the following criteria was used by the agency to file this notice:**

- Relates only to internal governmental operations that are not subject to violation by a person;
- Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Content is explicitly and specifically dictated by statute;
- Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- Is being amended after a review under RCW 34.05.328.

**Expedited Repeal - Which of the following criteria was used by the agency to file notice:**

- The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- The rule is no longer necessary because of changed circumstances; or
- Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

**Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4):** The proposed rules only change the name Medical Quality Assurance Commission to Washington Medical Commission in rule without changing its effect.

**NOTICE**

**THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO**

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**AND RECEIVED BY** (date) 11/18/2019

**Date:** 08/29/2019

**Name:** Melanie de Leon

**Title:** Executive Director

**Signature:**



**Chapter 246-918 WAC**  
**PHYSICIAN ASSISTANTS—~~WASHINGTON~~ MEDICAL ((~~QUALITY ASSURANCE~~)) COMMISSION**

AMENDATORY SECTION (Amending WSR 15-04-122, filed 2/3/15, effective 3/6/15)

**WAC 246-918-005 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Commission" means the Washington ((state)) medical ((quality assurance)) commission.

(2) "Commission approved program" means a physician assistant program accredited by the committee on allied health education and accreditation (CAHEA); the commission on accreditation of allied health education programs (CAAHEP); the accreditation review committee on education for the physician assistant (ARC-PA); or other substantially equivalent organization(s) approved by the commission.

(3) "Delegation agreement" means a mutually agreed upon plan, as detailed in WAC 246-918-055, between a sponsoring physician and physician assistant, which describes the manner and extent to which the physician assistant will practice and be supervised.

(4) "NCCPA" means National Commission on Certification of Physician Assistants.

(5) "Osteopathic physician" means an individual licensed under chapter 18.57 RCW.

(6) "Physician" means an individual licensed under chapter 18.71 RCW.

(7) "Physician assistant" means a person who is licensed under chapter 18.71A RCW by the commission to practice medicine to a limited extent only under the supervision of a physician as defined in chapter 18.71 RCW.

(a) "Certified physician assistant" means an individual who has successfully completed an accredited and commission approved physician assistant program and has passed the initial national boards examination administered by the National Commission on Certification of Physician Assistants (NCCPA).

(b) "Noncertified physician assistant" means an individual who:

(i) Successfully completed an accredited and commission approved physician assistant program, is eligible for the NCCPA examination, and was licensed in Washington state prior to July 1, 1999;

(ii) Is qualified based on work experience and education and was licensed prior to July 1, 1989;

(iii) Graduated from an international medical school and was licensed prior to July 1, 1989; or

(iv) Holds an interim permit issued pursuant to RCW 18.71A.020(1).

(c) "Physician assistant-surgical assistant" means an individual who was licensed under chapter 18.71A RCW as a physician assistant between September 30, 1989, and December 31, 1989, to function in a limited extent as authorized in WAC 246-918-250 and 246-918-260.

(8) "Remote site" means a setting physically separate from the sponsoring or supervising physician's primary place for meeting patients or a setting where the physician is present less than twenty-five percent of the practice time of the licensee.

(9) "Supervising physician" means a sponsoring or alternate physician providing clinical oversight for a physician assistant.

(a) "Sponsoring physician" means any physician licensed under chapter 18.71 RCW and identified in a delegation agreement as providing primary clinical and administrative oversight for a physician assistant.

(b) "Alternate physician" means any physician licensed under chapter 18.71 or 18.57 RCW who provides clinical oversight of a physician assistant in place of or in addition to the sponsoring physician.

AMENDATORY SECTION (Amending WSR 18-23-061, filed 11/16/18, effective 1/1/19)

**WAC 246-918-800 Intent and scope.** The rules in WAC 246-918-800 through 246-918-935 govern the prescribing of opioids in the treatment of pain.

The (~~Washington state medical quality assurance~~) commission (~~(commission)~~) recognizes that principles of quality medical practice dictate that the people of the state of Washington have access to appropriate and effective pain relief. The appropriate application of up-to-date knowledge and treatment modalities can serve to improve the quality of life for those patients who suffer from pain as well as reduce the morbidity, mortality, and costs associated with untreated or inappropriately treated pain. For the purposes of these rules, the inappropriate treatment of pain includes nontreatment, undertreatment, overtreatment, and the continued use of ineffective treatments.

The diagnosis and treatment of pain is integral to the practice of medicine. The commission encourages physician assistants to view pain management as a part of quality medical practice for all patients with pain, including acute, perioperative, subacute, and chronic pain. All physician assistants should become knowledgeable about assessing patients' pain and effective methods of pain treatment, as well as statutory requirements for prescribing opioids, including co-occurring prescriptions. Accordingly, these rules clarify the commission's position on pain control, particularly as related to the use of controlled substances, to alleviate physician assistant uncertainty and to encourage better pain management.

Inappropriate pain treatment may result from a physician assistant's lack of knowledge about pain management. Fears of investigation or sanction by federal, state, or local agencies may also result in inappropriate treatment of pain. Appropriate pain management is the treating physician assistant's responsibility. As such, the commission will consider the inappropriate treatment of pain to be a departure from standards of practice and will investigate such allegations, recognizing that some types of pain cannot be completely relieved, and taking into account whether the treatment is appropriate for the diagnosis.

The commission recognizes that controlled substances including opioids may be essential in the treatment of acute, subacute, perioperative, or chronic pain due to disease, illness, trauma, or surgery.

The commission will refer to current clinical practice guidelines and expert review in approaching cases involving management of pain. The medical management of pain should consider current clinical knowledge and scientific research and the use of pharmacologic and nonpharmacologic modalities according to the judgment of the physician assistant. Pain should be assessed and treated promptly, and the quantity and frequency of doses should be adjusted according to the intensity, duration, impact of the pain, and treatment outcomes. Physician assistants should recognize that tolerance and physical dependence are normal consequences of sustained use of opioids and are not the same as opioid use disorder.

The commission is obligated under the laws of the state of Washington to protect the public health and safety. The commission recognizes that the use of opioids for other than legitimate medical purposes poses a threat to the individual and society. The inappropriate prescribing of controlled substances, including opioids, may lead to drug diversion and abuse by individuals who seek them for other than legitimate medical use. Accordingly, the commission expects that physician assistants incorporate safeguards into their practices to minimize the potential for the abuse and diversion of controlled substances.

Physician assistants should not fear disciplinary action from the commission for ordering, prescribing, dispensing or administering controlled substances, including opioids, for a legitimate medical purpose and in the course of professional practice. The commission will consider prescribing, ordering, dispensing or administering controlled substances for pain to be for a legitimate medical purpose if based on sound clinical judgment. All such prescribing must be based on clear documentation of unrelieved pain. To be within the usual course of professional practice, a physician assistant-patient relationship must exist and the prescribing should be based on a diagnosis and documentation of unrelieved pain. Compliance with applicable state or federal law is required.

The commission will judge the validity of the physician assistant's treatment of the patient based on available documentation, rather than solely on the quantity and duration of medication administration. The goal is to control the patient's pain while effectively addressing other aspects of the patient's functioning, including physical, psychological, social, and work-related factors.

These rules are designed to assist physician assistants in providing appropriate medical care for patients.

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 guarantee an accurate diagnosis or a successful outcome. The sole purpose of these rules is to assist physician assistants 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.

For more specific best practices, the physician assistant may refer to clinical practice guidelines including, but not limited to, those produced by the agency medical directors' group, the Centers for Disease Control and Prevention, or the Bree Collaborative.

**WAC 246-918-895 Pain management specialist—Chronic pain.** A pain management specialist shall meet one or more of the following qualifications:

(1) If an allopathic physician assistant or osteopathic physician assistant must have a delegation agreement with a physician pain management specialist and meets the educational requirements and practice requirements listed below:

(a) A minimum of three years of clinical experience in a chronic pain management care setting;

(b) Credentialed in pain management by an entity approved by the (~~Washington state medical quality assurance~~) commission for an allopathic physician assistant or the Washington state board of osteopathic medicine and surgery for an osteopathic physician assistant;

(c) Successful completion of a minimum of at least eighteen continuing education hours in pain management during the past two years; and

(d) At least thirty percent of the physician assistant's current practice is the direct provision of pain management care or in a multidisciplinary pain clinic.

(2) If an allopathic physician, in accordance with WAC 246-919-945.

(3) If an osteopathic physician, in accordance with WAC 246-853-750.

(4) If a dentist, in accordance with WAC 246-817-965.

(5) If a podiatric physician, in accordance with WAC 246-922-750.

(6) If an advanced registered nurse practitioner, in accordance with WAC 246-840-493.