July 30, 2018

Daidria Amelia Underwood

Medical Quality Assurance Commission

Washington State Department of Health

P.O. Box 47866

Olympia, WA 98504-7866

Dear Members of the Medical Commission:

Thank you for the opportunity to provide comments on the Medical Commission’s CR-102 of opioid prescribing rules required by HB 1427 from the 2017 legislative session.

Physicians and hospitals see firsthand how the opioid crisis is impacting communities across the state. Our associations have joined together to develop community-based solutions, informed by clinician expertise, with the health of our patients of paramount concern. Throughout this rulemaking process, we have submitted 11 comment letters with the aim of making these important rules effective while minimizing unintended consequences.

We applaud improvements made by the Medical Commission to the Department of Health’s “conceptual draft”. **While the CR-102 is drastically improved over previous iterations, we remain concerned about the volume of administrative burden and liability these rules would place on physicians and other providers and the resulting impact on access to appropriate patient care.** In this communication, we offer specific editsand comments that we believe will make the rules more workable within the limited context of a patient visit. In addition to these comments, we kindly request that you review the attached “HB 1427 opioid prescribing rulemaking guiding principles” document which outlines our thoughts on this complicated issue.

**Request for enforcement grace period**

Our understanding is the Medical Commission aims to finalize and implement these rules by October or November 2018; in advance of the legislatively mandated date of Jan. 1, 2019. This leaves insufficient time to educate physicians, other providers, and patients on these comprehensive rules.

Should the Commission implement along this timeline, **we request a 6-month enforcement “grace period” to give physicians, health systems, and the public time to understand and adjust clinical workflows to ensure appropriate care delivery under these rules.**

**Strike intent and scope section, issue guideline or interpretive statement**

Throughout the rulemaking process we have requested the intent section include express assurances to physicians that the rules are not inflexible and recognize the importance of sound clinical judgement. Language was struck at a rule workshop in late May that would have provided this critical assurance and is therefore not included in the CR-102.

Other boards and commissions tasked with writing these rules have expressed their intent in one or two sentences. The Medical Commission’s CR-102’s intent section is 814 words. We argue a communication of this kind is not appropriate for this rulemaking and request the Medical Commission to strike its intent section in favor of releasing a guideline or interpretive statement, such as the one released in response to the confusion and ambiguity created by the chronic pain rules in 2012 – reaffirmed in June 2016. For reference, that communication is enclosed.

**Should vs. Shall**

Earlier in the rulemaking process, we urged rule writers “to focus-in on, and get right, several policies that will have a meaningful contribution to the existing trend of reducing harm associated with opioid drugs in Washington state”. Based on our reading of HB 1427, we advocated for clear, easy to follow rules that “shall” be followed when writing every opioid prescription to help minimize confusion and align expectations. However, we believe the CR-102 is not a concise document and does not provide adequate clarity for clinicians seeking to treat pain within both their clinical judgement and the draft’s requirements. At the urging of the Department of Health, we submit specific feedback below on which “shalls” should be “should” that will make these rules more workable for physicians and their patients during the limited context of a clinical visit.

Our comments on specific provisions are included below. Please never hesitate to reach out to Jeb Shepard at [jeb@wsma.org](mailto:jeb@wsma.org) or Ian Corbridge [IanC@wsha.org](mailto:IanC@wsha.org) with any questions you have.

Sincerely,

Members of the WSHA and WSMA joint opioid safe practices task force:

*Nathan Schlicher,* M.D. emergency physician at St. Joseph's Medical Center in Tacoma

*Thomas Schaaf,* M.D. family physician and hospitalist at Providence Medical Group in Spokane

*Ray Hsiao,* M.D. child psychiatrist and addiction specialist at Seattle Children's Hospital

*Scott Kennedy,* M.D. chief medical officer at Olympic Medical Center in Port Angeles

*Sean Dobbin,* Pharm.D. pharmacy director at Sacred Heart Medical Center in Spokane

*Thomas Staiger,* M.D. chief medical officer at UW Medical Center in Seattle

Enclosure:

HB 1427 opioid prescribing rulemaking guiding principles

Medical Commission Interpretive Statement