

Proposed rules designed to remove barriers for physicians to use physician assistants

Regulations

By Robert Iwrey

On Nov. 8, 2011, Public Act 210 of 2011 went into effect removing statutory language that prevented physicians, both MDs and DOs, from delegating the prescribing of controlled substances to physician assistants (PAs).

In essence, these statutory amendments provide that physicians:

- (1) May delegate in writing to a PA the ordering, receipt and dispensing of complimentary starter dose drugs including Schedule 2 through 5 controlled substances;
- (2) Are no longer required to sign an official form listing the physician's signature as the required signatory if that official form is signed by a PA to whom the physician has delegated (in writing) the performance of medical care services;
- (3) May delegate (in writing) the task of making calls or rounding on patients in private homes, public institutions, emergency vehicles, ambulatory care clinics, hospitals, intermediate or extended care facilities, HMOs, nursing homes or other health care facilities to PAs without restrictions on the time or frequency of visits; and
- (4) May delegate (in writing) to a PA the prescribing of Schedule 2 through 5 controlled substances (the names and DEA registration numbers of both the physician and PA must be used with each prescription).

Unfortunately, there was nothing within the statutory amendments that removed certain existing administrative rules that limited a physician's authority to delegate the prescribing of Schedule 2 controlled substances to a PA.

Moreover, the statutory amendments contain language that contemplates that administrative rules may be promulgated to further define which drugs or classes of drugs physicians shall not be able to delegate to PAs, and what procedures and protocols should be followed in order to be consistent with federal and state drug control and enforcement laws.

In response, on July 13, 2012, proposed amendments to the Boards of Medicine and Osteopathic Medicine & Surgery administrative rules were drafted.

These proposed administrative rule amendments are intended to eliminate any restrictions on a physician's ability to exercise his/her judgment to delegate to a PA the prescribing of Schedule 2 controlled substances; and to clarify and reduce the requirements for the written authorization physicians must use in order



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to delegate the performance of medical care services and/or the prescription of controlled substances to PAs.

The proposed administrative rule amendments will make it clear that a physician who supervises a PA must have a written authorization to delegate to a PA the performance of medical care services and/or the prescribing of schedule 2 through 5 controlled substances.

This written authorization must contain the effective date of the delegation, name, license number and signature of the supervising physician and the PA, and set forth any limitations or exceptions to the delegation of any medical care services and/or controlled substance prescribing.

Under the proposed administrative rule amendments, this written authorization must be reviewed and updated prior to the renewal of a PA's license (i.e., at least every 2 years) or in the interim as needed. A copy of this written authorization must be maintained in each separate office location of the physician where the delegation occurs.

If the proposed administrative rule amendments are adopted, supervising physicians are well-advised to seek legal review of the written delegation authorization to assure its accuracy, thoroughness and compliance with applicable federal and state laws as well as third-party payor billing rules and guidelines.

According to the Michigan Department of Licensing & Regulatory Affairs (LARA), both the aforementioned statutory and proposed administrative rule amendments are necessary in order to address a significant physician shortage in Michigan that many predict will worsen before it gets better.

In order to facilitate continued access to quality medical care in Michigan, the Legislature has determined that a streamlin-

ing of the regulations regarding the delegation of medical care services and prescribing of controlled substances by physicians to PAs is needed.

Without such changes, physicians are required to see patients who could otherwise be seen by PAs but for the fact that the PAs could not prescribe schedule 2 medications.

With such changes, Michigan physicians and PAs will both be able to see more patients, thereby increasing access to care.

As of Feb. 1, 2012, there are 32,587 MDs and 6,983 DOs who possess a full and unrestricted license to practice in Michigan with the authority to delegate the prescribing of Schedule 2 medications to the 3,809 PAs licensed in Michigan.

It should be noted that at least two other states in the Great Lakes Region, Minnesota and Wisconsin allow PAs to prescribe Schedule 2 medications as a delegated act of a supervising physician (although Illinois, New York and Ohio prohibit it).

LARA will hold a public hearing 9 a.m. Oct. 3, 2012, in Lansing to receive comments on the proposed administrative rule amendments. Additional information regarding the public hearing is available by contacting Desmond Mitchell, policy analyst, at mitchelld6@michigan.gov.



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