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FLORIDA ADMINISTRATIVE CODE
ANNOTATED
TITLE 64. DEPARTMENT OF HEALTH
SUBTITLE 64B8. BOARD OF MEDICINE
CHAPTER 64B8-9. STANDARDS OF PRACTICE
FOR MEDICAL DOCTORS
Current through March 1, 2004

64B8-9.013. Standards for the Use of Controlled Substances for Treatment of Pain.

(1) Pain management principles.

(a) The Board of Medicine recognizes that principles of quality medical practice dictate that the people of the State of Florida 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 and costs associated with untreated or inappropriately treated pain. The Board encourages physicians to view effective pain management as a part of quality medical practice for all patients with pain, acute or chronic, and it is especially important for patients who experience pain as a result of terminal illness. All physicians should become knowledgeable about effective methods of pain treatment as well as statutory requirements for prescribing controlled substances.

(b) Inadequate pain control may result from physicians' lack of knowledge about pain management or an inadequate understanding of addiction. Fears of investigation or sanction by federal, state, and local regulatory agencies may also result in inappropriate or inadequate treatment of chronic pain patients. Physicians should not fear disciplinary action from the Board or other state regulatory or enforcement agencies for prescribing, dispensing, or administering controlled substances including opioid analgesics, for a legitimate medical purpose and that is supported by appropriate documentation establishing a valid medical need and treatment plan. Accordingly, these standards have been developed to clarify the Board's position on pain control, specifically as related to the use of controlled substances, to alleviate physician uncertainty and to encourage better pain management.

(c) The Board recognizes that controlled substances, including opioid analgesics, may be essential in the treatment of acute pain due to trauma or surgery and chronic pain, whether due to cancer or non-cancer origins. The medical management of pain including

intractable pain should be based on current knowledge and research and includes the use of both pharmacologic and non-pharmacologic modalities. Pain should be assessed and treated promptly, and the quantity and frequency of doses should be adjusted according to the intensity and duration of the pain. Physicians should recognize that tolerance and physical dependence are normal consequences of sustained use of opioid analgesics and are not synonymous with addiction.

(d) The Board of Medicine is obligated under the laws of the State of Florida to protect the public health and safety. The Board recognizes that inappropriate prescribing of controlled substances, including opioid analgesics, may lead to drug diversion and abuse by individuals who seek them for other than legitimate medical use. Physicians should be diligent in preventing the diversion of drugs for illegitimate purposes.

(e) The Board will consider prescribing, ordering, administering, or dispensing controlled substances for pain to be for a legitimate medical purpose if based on accepted scientific knowledge of the treatment of pain or if based on sound clinical grounds. All such prescribing must be based on clear documentation of unrelieved pain and in compliance with applicable state or federal law.

(f) Each case of prescribing for pain will be evaluated on an individual basis. The Board will not take disciplinary action against a physician for failing to adhere strictly to the provisions of these standards, if good cause is shown for such deviation. The physician's conduct will be evaluated to a great extent by the treatment outcome, taking into account whether the drug used is medically and/or pharmacologically recognized to be appropriate for the diagnosis, the patient's individual needs including any improvement in functioning, and recognizing that some types of pain cannot be completely relieved.

(g) The Board will judge the validity of prescribing based on the physician's treatment of the patient and on available documentation, rather than on the quantity and chronicity of prescribing. The goal is to control the patient's pain for its duration while effectively addressing other aspects of the patient's functioning, including physical, psychological, social, and work-related factors. The following standards are not intended to define complete or best practice, but rather to communicate what the Board considers to be within the boundaries of professional practice.

(2) Definitions.

(a) Acute Pain. For the purpose of this rule, "acute pain" is defined as the normal, predicted physiological response to an adverse chemical, thermal, or mechanical stimulus and is associated with surgery, trauma, and acute illness. It is generally time-limited and is responsive to opioid therapy, among other therapies.

(b) Addiction. For the purpose of this rule, "addiction" is defined as a neurobehavioral syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects and is characterized by compulsive use despite harm. Addiction may also be referred to by terms such as "drug dependence" and "psychological dependence." Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and should not be considered addiction.

(c) Analgesic Tolerance. For the purpose of this rule, "analgesic tolerance" is defined as the need to increase the dose of opioid to achieve the same level of analgesia. Analgesic tolerance may or may not be evident during opioid treatment and does not equate with addiction.

(d) Chronic Pain. For the purpose of this rule, "chronic pain" is defined as a pain state which is persistent.

(e) Pain. For the purpose of this rule, "pain" is defined as an unpleasant sensory and emotional experience associated with actual or potential tissue damage or described in terms of such damage.

(f) Physical Dependence. For the purpose of this rule, "physical dependence" on a controlled substance is defined as a physiologic state of neuro-adaptation which is characterized by the emergence of a withdrawal syndrome if drug use is stopped or decreased abruptly, or if an antagonist is administered. Physical dependence is an expected result of opioid use. Physical dependence, by itself, does not equate with addiction.

(g) Pseudoaddiction. For the purpose of this rule, "pseudoaddiction" is defined as a pattern of drug-seeking behavior of pain patients who are receiving inadequate pain management that can be mistaken for addiction.

(h) Substance Abuse. For the purpose of this rule, "substance abuse" is defined as the use of any substances for non-therapeutic purposes or use of medication for purposes other than those for which it is prescribed.

(i) Tolerance. For the purpose of this rule, "tolerance" is defined as a physiologic state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect, or a reduced effect is observed with a constant dose.

(3) Standards. The Board has adopted the following standards for the use of controlled substances for pain control:

(a) Evaluation of the Patient. A complete medical history and physical examination must be conducted and documented in the medical record. The medical record should document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, and history of substance abuse. The medical record also should document the presence of one or more recognized medical indications for the use of a controlled substance.

(b) Treatment Plan. The written treatment plan should state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and should indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the physician should adjust drug therapy to the individual medical needs of each patient. Other treatment modalities or a rehabilitation program may be necessary depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment.

(c) Informed Consent and Agreement for Treatment. The physician should discuss the risks and benefits of the use of controlled substances with the patient, persons designated by the patient, or with the patient's surrogate or guardian if the patient is incompetent. The patient should receive prescriptions from one physician and one pharmacy where possible. If the patient is determined to be at high risk for medication abuse or have a history of substance abuse, the physician should employ the use of a written agreement between physician and patient outlining patient responsibilities, including, but not limited to:

1. Urine/serum medication levels screening when

requested;

2. Number and frequency of all prescription refills;
and

3. Reasons for which drug therapy may be discontinued (i.e., violation of agreement).

(d) Periodic Review. At reasonable intervals based on the individual circumstances of the patient, the physician should review the course of treatment and any new information about the etiology of the pain. Continuation or modification of therapy should depend on the physician's evaluation of the patient's progress. If treatment goals are not being achieved, despite medication adjustments, the physician should reevaluate the appropriateness of continued treatment. The physician should monitor patient compliance in medication usage and related treatment plans.

(e) Consultation. The physician should be willing to refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention should be given to those pain patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder requires extra care, monitoring, and documentation, and may require consultation with or referral to an expert in the management of such patients.

(f) Medical Records. The physician is required to keep accurate and complete records to include, but not be limited to:

1. The medical history and physical examination, including history of drug abuse or dependence, as

appropriate;

2. Diagnostic, therapeutic, and laboratory results;

3. Evaluations and consultations;

4. Treatment objectives;

5. Discussion of risks and benefits;

6. Treatments;

7. Medications (including date, type, dosage, and quantity prescribed);

8. Instructions and agreements; and

9. Periodic reviews.

Records must remain current and be maintained in an accessible manner and readily available for review.

(g) Compliance with Controlled Substances Laws and Regulations. To prescribe, dispense, or administer controlled substances, the physician must be licensed in the state and comply with applicable federal and state regulations. Physicians are referred to the Physicians Manual: An Informational Outline of the Controlled Substances Act of 1970, published by the U.S. Drug Enforcement Agency, for specific rules governing controlled substances as well as applicable state regulations.

Specific Authority 458.309(1), 458.331(1)(v) FS. Law Implemented 458.326, 458.331(1)(g), (t), (v) FS. History--New 12-21-99, Amended 11- 10-02, 10-19-03.

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WEST'S FLORIDA STATUTES ANNOTATED

TITLE XXXII. REGULATION OF PROFESSIONS AND OCCUPATIONS

CHAPTER 458. MEDICAL PRACTICE

458.326. Intractable pain; authorized treatment

(1) For the purposes of this section, the term "intractable pain" means pain for which, in the generally accepted course of medical practice, the cause cannot be removed and otherwise treated.

(2) Intractable pain must be diagnosed by a physician licensed under this chapter and qualified by experience to render such diagnosis.

(3) Notwithstanding any other provision of law, a physician may prescribe or administer any controlled substance under Schedules II-V, as provided for in s. 893.03, to a person for the treatment of intractable pain, provided the physician does so in accordance with that level of care, skill, and treatment recognized by a reasonably prudent physician under similar conditions and circumstances.

(4) Nothing in this section shall be construed to condone, authorize, or approve mercy killing or euthanasia, and no treatment authorized by this section may be used for such purpose.

CREDIT(S)

Added by Laws 1994, c. 94-96, § 3, eff. April 8, 1994. Amended by Laws 1997, c. 97-264, § 100, eff. July 1, 1997; Laws 1999, c. 99-186, § 4, eff. July 1, 1999; Laws 2002, c. 2002-78, § 6, eff. July 1, 2002.

HISTORICAL AND STATUTORY NOTES

Amendment Notes:

Laws 2002, c. 2002-78, § 6, eff. July 1, 2002, reenacted subsec. (3) of this section for the purpose of incorporating the amendment to § 893.03 in a reference thereto.

West's F. S. A. § **458.326**, FL ST § **458.326**

Current with 2004 legislation effective through April 27, 2004

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