

## Podiatric Medical Board Newsletter

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## Message from the Chair

Randy Anderson, DPM, Chair

Greetings from the Podiatric Medical Board (board). For this newsletter edition, I want to highlight the topic of opioid prescribing. I also want to share some information about changes related to the board.

### Opioid Prescribing

If you subscribe to the board's bulk email service *GovDelivery* or have read the board's previous newsletter, you are aware of the board's recently adopted rules regarding opioid prescribing. These rules implemented Engrossed Substitute House Bill 1427. You can find helpful information about these rules on [page 2](#). Information about recent legislation on this same topic can be found on [page 3](#). A series of Frequently Asked Questions about opioid prescribing can be found on page 4.

### Board Member Recruitment

The board recently went through a recruitment process for a vacant member position as Suzanne Wilson, DPM, completed two consecutive five-year terms and was not eligible for reappointment. The new board member, Zarko Kajgana, DPM, hails from Clark County and represents the profession in the Southwest Washington area. Dr. Kajgana started with the board in January 2019. Join me in welcoming him to the board.

### Staff Changes

The board now has a new executive director on staff at the Department of Health (department). Her name is Renee Fullerton, MPH. The previous executive director, Blake Maresh, took a promotional opportunity to become the Deputy Director for the department's Office of Health Professions. Ms. Fullerton started with the board on July 1, 2019, and came from the department's Rural Health Section where she worked as the Workforce Programs Manager. Join me in welcoming Renee to her new position.

### Reader Input

The board is looking for reader input. If you want to read about something specific, [please let us know](#).



## Hot Topics

# Podiatric Physician Opioid Prescribing

## The New Opioid Prescribing Rules

The new opioid prescribing requirements are now effective in Washington. The goals are to increase public health and safety by reducing opioid abuse and misuse, while ensuring that practitioners continue to treat patients safely and appropriately for pain.

Toolkits are available to help make practitioners aware of the new requirements. They include:

[Link to the new rules](#) (246-922-660 through 246-922-790)

[Provider handouts](#)

[Educational videos explaining the new requirements](#)



A licensed podiatric physician who prescribes opioids must complete one hour of continuing education (CE) in opioid prescribing best practices and rules of chapter 246-922 WAC. CE related to opioid prescribing counts toward meeting any applicable Category 1 continuing education requirements. The CE must be completed by the end of the first full CE reporting cycle after January 1, 2019; for most podiatric physicians this will be by their birthdate in 2021.

The provider handouts available online include an overview of the new rules and patient handouts. Patient handouts are under the [Public/Patient tab](#).

A licensed podiatric physician who prescribes opioids must register for the Prescription Monitoring Program (PMP).

Steps for PMP online account Registration:

- [www.doh.wa.gov/pmp](http://www.doh.wa.gov/pmp), select “Provider Login.” Accept “Terms and Conditions.” Will forward to the SAW logon page.
- Log on to your SAW account. No account? Select “Sign up!”
- In SAW “Add a New Service.” Find PMP in the “Service Menu” under Department of Health.
- Select “New User” and fill out the PMP registration.

PMP staff members can assist with registration by phone at 360-236-4806 or by email at [prescription-monitoring@doh.wa.gov](mailto:prescription-monitoring@doh.wa.gov).

Should you need additional information about the podiatric physician opioid rules, please email us at [podiatric@doh.wa.gov](mailto:podiatric@doh.wa.gov).

## What's Next?

### 1. Substitute Senate Bill 5380 (Laws of 2019)

The legislature passed Substitute Senate Bill 5380 that increases access to evidence-based opioid use disorder treatment services, promotes coordination of services within the substance use disorder treatment and recovery support system, strengthens partnerships between opioid use disorder treatment providers and their allied community partners, expands the use of the Washington Prescription Monitoring Program (PMP), and supports comprehensive school and community-based substance use prevention services.

### 2. What does the new law mean for me, a prescriber?

There are several areas that may have impact to individual prescribers:

- Section 3 requires the board to amend their opioid prescribing rules to require podiatric physicians to notify their patients of the right to refuse an opioid prescription.
- Section 16 requires all controlled substance prescriptions to be electronically communicated to a pharmacy. The Department of Health must develop a waiver process for this requirement for practitioners due to economic hardship, technological limitations that are not reasonably in the control of the practitioner, or other exceptional circumstances demonstrated by the practitioner.
- Section 17 lists several requirements in the new law, such as requiring that a prescriber discuss the risks of opioids. Many of these have already been included by the recently adopted opioid prescribing rules. One of these requires a prescriber to discuss pain management alternatives.
- Section 22 requires any facility, entity, office, or provider group with ten or more prescribers to integrate their electronic health records with the PMP. These requirements are effective January 1, 2021.

### 3. Where can I go for more information?

You can follow the board's rulemaking efforts or keep informed of other topics of interest to the profession by subscribing to the board's bulk email service, *GovDelivery*. Go to <http://www.doh.wa.gov>, scroll to down to the bottom of the webpage, then click on the "Subscribe" button, and follow the prompts to choose the Podiatric Medical Board.

## Opioid Prescribing Frequently Asked Questions

### What are the exceptions to the opioid prescribing rules?

Prescribing for patients for procedural pre-medications, treatment of patients with cancer-related pain, provision of palliative or hospice care, or treatment of inpatient and observation hospital patients are exempt from the opioid prescribing rules. [WAC 246-922-661](#)

### When should a podiatric physician prescribe naloxone?

When prescribing high-dose opioids to a high-risk patient, a podiatric physician must confirm or provide a current prescription of naloxone. [WAC 246-922-785](#)

[Continued on page 6](#)

## New Law Related to Sexual Misconduct Violations

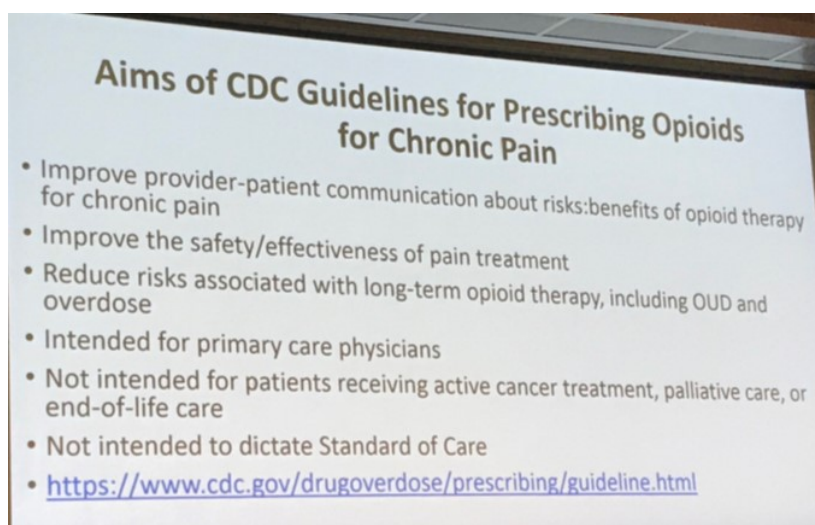
During the 2019 legislative session, Substitute House Bill 1198 passed that adds requirements to health care practitioners sanctioned for sexual misconduct. This Bill becomes effective October 1, 2019.

When a health care practitioner has action taken against their license for unprofessional conduct involving sexual misconduct, they are required to notify any patient scheduled for an appointment with that license holder. This is required during the time the health care practitioner is under the formal disciplinary Order or Stipulation to Informal Disposition. The patient notification must include a copy of the Order or STID, a description of the sanctions, how long the license holder will be under the Order or STID, and information on how the patient can get more information.

## Center for Disease Control and Prevention (CDC) Issues Key Clarification on Guideline for Prescribing Opioids for Chronic Pain

“The Guideline is not intended to deny any patients who suffer with chronic pain from opioid therapy as an option for pain management. Rather, the Guideline is intended to ensure that clinicians and patients consider all safe and effective treatment options for patients. Clinical decision-making should be based on the relationship between the clinician and patient, with an understanding of the patient's clinical situation, functioning, and life context, as well as a careful consideration of the benefits and risk of all treatment options, including opioid therapy. CDC encourages physicians to continue to use their clinical judgment and base treatment on what they know about their patients, including the use of opioids if determined to be the best course of treatment. Providers should communicate frequently with their patients to discuss both the benefits and risks of opioid therapy and revisit treatment plans for pain regularly to achieve the most positive outcomes for patients.”

Read the full letter from the CDC here: <https://wmc.wa.gov/sies/default/files/public/documents/CDC%20Clarification%20letter-Redfield.pdf>



## Rule Making Activities

### Prohibited Transactions

During recent rule-making, the board amended a section of rule (WAC 246-922-010) that included language in a definition prohibiting podiatric physicians and surgeons from adjusting or modifying prefabricated orthotic devices and selling them to customers as custom fabricated or custom made devices. This language was not appropriate for a definition and was deleted at this time. During the rule adoption hearing, a concern was shared by the Washington State Podiatric Medical Association (WSPMA) about removing the language. No changes were made at the adoption hearing as a result of these concerns because, although the board agreed that the language is important, making such a substantive change at that time would require re-starting the rule project. The board authorized rule-making to address this concern at a later date.

The board is now addressing the concerns by proposing to amend WAC 246-922-230 . The board determined that this is the most appropriate location for the re-insertion of this language because this section of rule relates to prohibited transactions by podiatric physicians and surgeons.

### Recently adopted opioid prescribing rules—updates

As reported in the board's previous newsletter, the legislature passed Engrossed Substitute House Bill 1427 (chapter 297, Laws of 2017) directing the board, along with four other boards and commissions, to adopt rules establishing requirements for prescribing opioid drugs for seven health professions.

The board participated in a workgroup task force with those boards and commissions to develop model rules that each board and commission would then customize to align with the specific practice areas to which they would be applied. With an effective date of November 1, 2018, the board held one of the first rule adoption hearings and adopted rule language that closely mirrored the task force model rules. The other boards and commissions subsequently modified the model rule language with more restrictive PMP query requirements.

The board is considering amendments to their rules to more closely align the PMP query requirement with the other board and commissions. In addition, it was discovered there were typographical errors in three section of the adopted rules. The board will correct these errors when considering potential changes to the PMP query requirement.

### Opioid prescribing—Next Steps

The board has authorized rule making to implement Substitute Senate Bill 5380. Please see the article "What's Next" on page 3 for information.

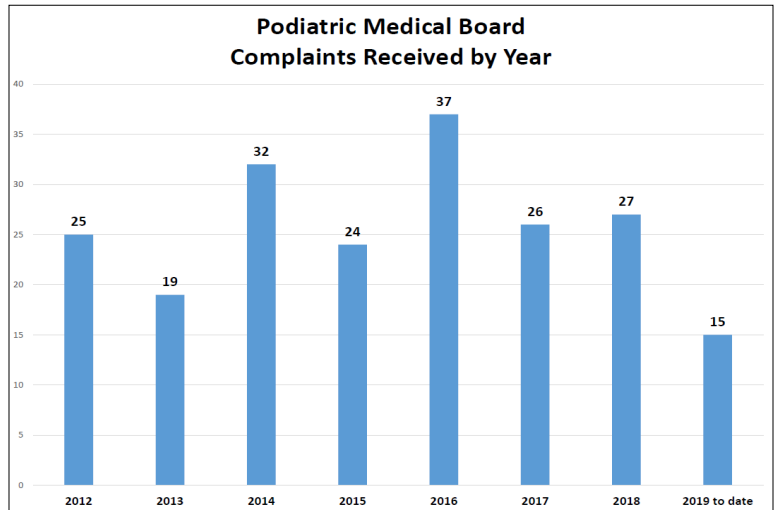
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To stay current with the board's rule making activities, please consider subscribing to the board's bulk email service, *GovDelivery*, at <https://public.govdelivery.com/accounts/WADOH/subscriber/new>.

Subscribe

## Statistics

License Counts as of July 1, 2019	
Active Licenses	357
Inactive Licenses	19
Pending Applications	9
Retired Active Licenses	2
Post-Graduate Training Licenses	18



### Opioid Prescribing Frequently Asked Questions—cont. from page 3

#### **How does a podiatric physician provide notification to a patient of the risks associated with opioid use?**

A podiatric physician may provide a Department of Health patient handout, which is available on our website at [www.doh.wa.gov/opioidprescribing](http://www.doh.wa.gov/opioidprescribing). A podiatric physician must document the notification in the patient record. [WAC 246-922-675](#)

#### **When does a podiatric physician document a Prescription Monitoring Program (PMP) query in the patient record?**

The rules currently state the query must be done upon the 2<sup>nd</sup> refill; however, the board is in the midst of rule-making to consider greater consistency with the rules for the other prescribing boards and commissions. The PMP query must also be done at each pain transition treatment phase, and periodically for chronic pain patients. [WAC 246-922-790](#)

#### **May a podiatric physician delegate the performance of a required Prescription Monitoring Program (PMP) query to supportive personnel?**

Yes. The supportive employee must be a credentialed health care professional, i.e., registered or certified medical assistant, LPN, or RN. PMP queries may not be delegated to unlicensed office staff members. [WAC 246-922-790](#)

#### **Is there a prescribing limit for podiatric physicians who treat patients for acute pain?**

Up to a seven-day supply may be prescribed without the need to justify in the patient record; however, if a podiatric physician feels the patient requires a quantity greater than seven days, the podiatric physician must document clinical justification in the patient record. [WAC 246-922-695](#)

## Legal Actions December 2018 — June 2019

Practitioner and County	Date	Order Type	Board Action
PODI.PO.00000715 Spokane County	3/12/2019	Stipulation to Informal Disposition	Reimburse \$1,000 board costs; continuing education in infection control (8 hours); surgical facility must meet CDC infection control requirements; obey all federal, state, and local laws, and all administrative rules

**Stipulated Findings of Fact, Conclusions of Law and Agreed Order:** a settlement resolving a statement of charges. This order is an agreement to comply with certain terms and conditions to protect the public. .

**Stipulated Findings of Fact, Conclusions of Law and Final Order:** an order issued after a formal hearing before the board.

**Stipulation to Informal Disposition (STID):** a document stating allegations have been made, and containing an agreement by the licensee to be subject to sanctions, including terms and conditions to resolve the concerns raised by the allegations.

**How to avoid a complaint:** Communicate and document all communication and treatment provided or recommended. These actions alone may not prevent a complaint being filed but will assist the board when evaluating whether a violation of law has occurred. Know your law.

Access Podiatry laws and rules here:

[RCW 18.22](#) [WAC 246-922](#) [RCW 18.130](#) [WAC 246-12](#) [WAC 246-16](#) [RCW 70.02](#)

### Renew Your Credential Online

Podiatric physicians who are within 60 days of their license expiration date may renew their active status licenses, registrations or certifications online.

To renew online, you must register with Secure Access Washington and sign in to the Department of Health Online Services on the [Secure Access Washington \(SAW\) website](#). Here is a link to [online renewal frequently asked questions](#).

If you're having problems with the Department of Health Online Services site, [contact our Customer Service Office by email](#) or phone at 360-236-4700.

The board is now using [GovDelivery](#) to deliver notifications to subscribers. *GovDelivery* affords the user more control over topics of interest, when and how often the messages are received. To join, go to: <https://public.govdelivery.com/accounts/WADOH/subscriber/new>

Look up any healthcare provider credential on the Department of Health [Provider Credential Search page](#).

## Clarifying the Law Governing Office-Based Surgery\*

If you perform surgery in an office using more than minimal sedation, you must either obtain an ambulatory surgical facility (ASF) license from the Washington State Department of Health, or meet the requirements of the Podiatric Medical Board's (board) office-based surgery rule. The requirements are different. Determining which applies to your practice can be confusing. This article intends to clarify the confusion.

The first step is to determine whether you need an ASF license. You must obtain an ASF license if your facility:

- Is a distinct entity separate from your office practice; **and**
- Provides specialty or multi-specialty outpatient surgical services, and either:
  1. Plans to use general anesthesia, as defined by [WAC 246-330-010](#)(16), **or**
  2. Operates for the primary purpose of providing specialty or multi-specialty outpatient surgical services.

The statute, [chapter 70.230 RCW](#), does not define "distinct entity", but states that the facility may include one or more surgical suites that are adjacent to, but in the same building as, your office. The term "primary purpose" means that the majority of income or patient visits are derived from the specialty or multi-specialty surgical services.

The statute excludes surgery routinely and customarily performed in an office, unless the primary purpose is to provide surgical services or general anesthesia is a planned event. In addition, if you call your facility an ASF or use words that convey a similar meaning, you must obtain an ASF license.

If your facility does not meet the conditions for a mandatory ASF license, the second step is to determine whether the board's office-based surgery rule applies to your practice.

The board's rule, [WAC 246-922-650](#), covers any surgery or invasive procedure performed outside a hospital, hospital-associated ambulatory surgical center, or licensed ASF, in which more than minimal sedation or infiltration of local anesthetic around peripheral nerves is used. The rule clarifies that if the amount of local anesthetic infiltrated around peripheral nerves exceeds the manufacturer's published recommendations, the rule applies.

The rule requires the facility to be accredited by an accrediting entity listed in the rule. The rule also contains requirements for competency, qualifications for administration of anesthesia, advanced resuscitative techniques, sedation assessment and management, separation of surgical and monitoring functions, emergency care, transfer protocols, and record keeping. The full text of the board's rule can be found at <https://app.leg.wa.gov/wac/default.aspx?cite=246-922-650>. Additional information can be found on the Department of Health web site ([www.doh.wa.gov](http://www.doh.wa.gov)), including frequently asked questions about licensing ambulatory surgical facilities, links to the laws, and the application for a license.

\* Adapted from the Washington Medical Commission Update! Summer 2016 (DOH 658-002 June 2016)

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### Board

#### Meeting Dates

January 16, 2020

April 16, 2020

July 16, 2020

October 15, 2020

**Public Health - Always Working for a Safer and Healthier Washington.**