

16.10.14.1 – 16.10.14.9 NMAC

§ 16.10.14.1. ISSUING AGENCY

New Mexico Medical Board, hereafter called the board.

§ 16.10.14.2. SCOPE

This part applies to all physicians and physician assistants licensed by the board.

§ 16.10.14.3. STATUTORY AUTHORITY

These rules are promulgated pursuant to and in accordance with the Medical Practice Act, *sections 61-6-1 through 61-6-35 NMSA 1978*.

§ 16.10.14.4. DURATION

Permanent

§ 16.10.14.5. EFFECTIVE DATE

January 20, 2003, unless a later date is cited at the end of a section.

§ 16.10.14.6. OBJECTIVE

It is the position of the board that practitioners have an obligation to treat chronic pain and that a wide variety of medicines including controlled substances and other drugs may be prescribed for that purpose. When such medicines and drugs are used, they should be prescribed in adequate doses and for appropriate lengths of time after a thorough medical evaluation has been completed.

§ 16.10.14.7. DEFINITIONS

A. "Addiction" is a neurobehavioral syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects. It is characterized by behaviors that include one or more of the following: impaired control over drug use; compulsive use; continued use despite harm; and, craving. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and should not by themselves be considered addiction.

B. "Chronic pain" means a pain state which is persistent and in which the cause of the pain cannot be removed or otherwise treated.

C. "Drug abuser" means a person who takes a drug or drugs for other than legitimate medical purposes.

D. "Pain" means an unpleasant sensory and emotional experience associated with inflammation or with actual or potential tissue damage, or described in terms of such inflammation and damage.

E. "Physical dependence" means a state of adaptation that is manifested by a drug-specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, administration of an antagonist, or a combination of these.

F. "Tolerance" means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug's effects over time.

§ 16.10.14.8. GUIDELINES

The following guidelines will be used by the board to determine whether a physician's or physician assistant's prescriptive practices are consistent with the appropriate treatment of pain.

A. The treatment of pain with various medicines and/or controlled substances is a legitimate medical practice when accomplished in the usual course of professional practice. It does not preclude treatment of patients with addiction, physical dependence

and/or tolerance who have legitimate pain. However, such patients do require very close monitoring and precise documentation.

B. The prescribing, ordering, administering or dispensing of controlled substances to meet the individual needs of the patient for management of chronic pain is appropriate if prescribed, ordered, administered or dispensed in compliance with the following.

(1) A practitioner shall complete a physical examination and include an evaluation of the patient's psychological and pain status. The medical history shall include any previous history of significant pain, past history of alternate treatments for pain, potential for substance abuse, coexisting disease or medical conditions, and the presence of a medical indication or contra-indication against the use of controlled substances.

(2) A written treatment plan shall be developed and tailored to the individual needs of the patient, taking age, gender, culture, and ethnicity into consideration, with stated objectives by which treatment can be evaluated, e.g. by degree of pain relief, improved physical and psychological function, or other accepted measure. Such a plan should include a statement of the need for further testing, consultation, referral or use of other treatment modalities.

(3) The practitioner shall discuss the risks and benefits of using controlled substances with the patient and/or surrogate or guardian.

(4) Complete and accurate records of care provided and drugs prescribed shall be maintained. When controlled substances are prescribed, the name of the drug, quantity, prescribed dosage and number of refills authorized should be recorded. Patients with a history of substance abuse or who are in an environment posing a high risk for misuse or diversion of drugs (e.g., living with a drug abuser, living or working in a place where drugs are available) may require special consideration.

(5) The management of patients needing chronic pain control requires monitoring by the attending and/or the consulting practitioner. In addition, a practitioner should consult, when indicated by the patient's condition, with health care professionals who are experienced (by the length and type of their practice) in the area of chronic pain control; such professionals need not be those who specialize in pain control. Consultation should occur early in the course of long-term treatment, and at reasonable intervals during continued long-term treatment for assessment of benefit and need. It is especially important, when treating addicts for legitimate pain apart from their addiction, to obtain a contractual agreement with the patient, appropriate consultation, and to set a schedule for re-evaluation at appropriate time intervals.

(6) If, in a practitioner's medical opinion, a patient is seeking pain medication for reasons that are not medically justified, the practitioner is not required to prescribe controlled substances for the patient.

C. The board will evaluate the quality of care on the following basis: appropriate diagnosis and evaluation; appropriate medical indication for the treatment prescribed; documented change or persistence of the recognized medical indication; and, followup evaluation with appropriate continuity of care. The board will judge the validity of prescribing based on the practitioner'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.

- D. The board will review both over-prescription and under-prescription of pain medications using the same standard of patient protection as a guiding principle.
- E. A practitioner who appropriately prescribes controlled substances and who follows this section would be considered to be in compliance with this rule and not be subject to discipline by the board, unless there is some violation of the Medical Practice Act or board rules.

**§ 16.10.14.9. PHYSICIAN, PHYSICIAN ASSISTANTS AND ANESTHESIOLOGIST ASSISTANTS TREATED WITH OPIATES**

Physicians, physician assistants or anesthesiologist assistants who have chronic pain and are being treated with opiates shall be evaluated by a pain clinic or, by an M.D. or D.O. pain specialist, and must have a complete, independent neuropsychological evaluation, as well as clearance from their physician, before returning to or continuing in practice. In addition, they must remain under the care of a physician for as long as they remain on opiates while continuing in practice.