

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 2876

Chapter 209, Laws of 2010

(partial veto)

61st Legislature
2010 Regular Session

PAIN MANAGEMENT--ADOPTION OF RULES

EFFECTIVE DATE: 06/10/10

Passed by the House March 11, 2010
Yeas 96 Nays 1

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 11, 2010
Yeas 36 Nays 12

BRAD OWEN

President of the Senate

Approved March 25, 2010, 3:40 p.m., with
the exception of Section 8 which is
vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of
the House of Representatives of
the State of Washington, do hereby
certify that the attached is
**ENGROSSED SUBSTITUTE HOUSE BILL
2876** as passed by the House of
Representatives and the Senate on
the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

March 26, 2010

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2876

AS AMENDED BY THE SENATE

Passed Legislature - 2010 Regular Session

State of Washington **61st Legislature** **2010 Regular Session**

By House Health Care & Wellness (originally sponsored by
Representatives Moeller, Green, and Morrell)

READ FIRST TIME 01/26/10.

1 AN ACT Relating to pain management; adding a new section to chapter
2 18.22 RCW; adding a new section to chapter 18.32 RCW; adding a new
3 section to chapter 18.57 RCW; adding a new section to chapter 18.57A
4 RCW; adding a new section to chapter 18.71 RCW; adding a new section to
5 chapter 18.71A RCW; adding a new section to chapter 18.79 RCW; and
6 creating a new section.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.22 RCW
9 to read as follows:

10 (1) By June 30, 2011, the board shall repeal its rules on pain
11 management, WAC 246-922-510 through 246-922-540.

12 (2) By June 30, 2011, the board shall adopt new rules on chronic,
13 noncancer pain management that contain the following elements:

14 (a)(i) Dosing criteria, including:

15 (A) A dosage amount that must not be exceeded unless a podiatric
16 physician and surgeon first consults with a practitioner specializing
17 in pain management; and

18 (B) Exigent or special circumstances under which the dosage amount

1 may be exceeded without consultation with a practitioner specializing
2 in pain management.

3 (ii) The rules regarding consultation with a practitioner
4 specializing in pain management must, to the extent practicable, take
5 into account:

6 (A) Circumstances under which repeated consultations would not be
7 necessary or appropriate for a patient undergoing a stable, ongoing
8 course of treatment for pain management;

9 (B) Minimum training and experience that is sufficient to exempt a
10 podiatric physician and surgeon from the specialty consultation
11 requirement;

12 (C) Methods for enhancing the availability of consultations;

13 (D) Allowing the efficient use of resources; and

14 (E) Minimizing the burden on practitioners and patients.

15 (b) Guidance on when to seek specialty consultation and ways in
16 which electronic specialty consultations may be sought;

17 (c) Guidance on tracking clinical progress by using assessment
18 tools focusing on pain interference, physical function, and overall
19 risk for poor outcome; and

20 (d) Guidance on tracking the use of opioids.

21 (3) The board shall consult with the agency medical directors'
22 group, the department of health, the University of Washington, and the
23 largest professional association of podiatric physicians and surgeons
24 in the state.

25 (4) The rules adopted under this section do not apply:

26 (a) To the provision of palliative, hospice, or other end-of-life
27 care; or

28 (b) To the management of acute pain caused by an injury or a
29 surgical procedure.

30 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.32 RCW
31 to read as follows:

32 (1) By June 30, 2011, the commission shall adopt new rules on
33 chronic, noncancer pain management that contain the following elements:

34 (a)(i) Dosing criteria, including:

35 (A) A dosage amount that must not be exceeded unless a dentist
36 first consults with a practitioner specializing in pain management; and

1 (B) Exigent or special circumstances under which the dosage amount
2 may be exceeded without consultation with a practitioner specializing
3 in pain management.

4 (ii) The rules regarding consultation with a practitioner
5 specializing in pain management must, to the extent practicable, take
6 into account:

7 (A) Circumstances under which repeated consultations would not be
8 necessary or appropriate for a patient undergoing a stable, ongoing
9 course of treatment for pain management;

10 (B) Minimum training and experience that is sufficient to exempt a
11 dentist from the specialty consultation requirement;

12 (C) Methods for enhancing the availability of consultations;

13 (D) Allowing the efficient use of resources; and

14 (E) Minimizing the burden on practitioners and patients.

15 (b) Guidance on when to seek specialty consultation and ways in
16 which electronic specialty consultations may be sought;

17 (c) Guidance on tracking clinical progress by using assessment
18 tools focusing on pain interference, physical function, and overall
19 risk for poor outcome; and

20 (d) Guidance on tracking the use of opioids.

21 (2) The commission shall consult with the agency medical directors'
22 group, the department of health, the University of Washington, and the
23 largest professional association of dentists in the state.

24 (3) The rules adopted under this section do not apply:

25 (a) To the provision of palliative, hospice, or other end-of-life
26 care; or

27 (b) To the management of acute pain caused by an injury or a
28 surgical procedure.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.57 RCW
30 to read as follows:

31 (1) By June 30, 2011, the board shall repeal its rules on pain
32 management, WAC 246-853-510 through 246-853-540.

33 (2) By June 30, 2011, the board shall adopt new rules on chronic,
34 noncancer pain management that contain the following elements:

35 (a)(i) Dosing criteria, including:

36 (A) A dosage amount that must not be exceeded unless an osteopathic

1 **physician and surgeon** first consults with a practitioner specializing
2 in pain management; and

3 (B) Exigent or special circumstances under which the dosage amount
4 may be exceeded without consultation with a practitioner specializing
5 in pain management.

6 (ii) The rules regarding consultation with a practitioner
7 specializing in pain management must, to the extent practicable, take
8 into account:

9 (A) Circumstances under which repeated consultations would not be
10 necessary or appropriate for a patient undergoing a stable, ongoing
11 course of treatment for pain management;

12 (B) Minimum training and experience that is sufficient to exempt an
13 osteopathic physician and surgeon from the specialty consultation
14 requirement;

15 (C) Methods for enhancing the availability of consultations;

16 (D) Allowing the efficient use of resources; and

17 (E) Minimizing the burden on practitioners and patients.

18 (b) Guidance on when to seek specialty consultation and ways in
19 which electronic specialty consultations may be sought;

20 (c) Guidance on tracking clinical progress by using assessment
21 tools focusing on pain interference, physical function, and overall
22 risk for poor outcome; and

23 (d) Guidance on tracking the use of opioids, particularly in the
24 emergency department.

25 (3) The board shall consult with the agency medical directors'
26 group, the department of health, the University of Washington, and the
27 largest association of osteopathic physicians and surgeons in the
28 state.

29 (4) The rules adopted under this section do not apply:

30 (a) To the provision of palliative, hospice, or other end-of-life
31 care; or

32 (b) To the management of acute pain caused by an injury or a
33 surgical procedure.

34 NEW SECTION. **Sec. 4.** A new section is added to chapter 18.57A RCW
35 to read as follows:

36 (1) By June 30, 2011, the board shall repeal its rules on pain
37 management, WAC 246-854-120 through 246-854-150.

1 (2) By June 30, 2011, the board shall adopt new rules on chronic,
2 noncancer pain management that contain the following elements:

3 (a)(i) Dosing criteria, including:

4 (A) A dosage amount that must not be exceeded unless an osteopathic
5 physician's assistant first consults with a practitioner specializing
6 in pain management; and

7 (B) Exigent or special circumstances under which the dosage amount
8 may be exceeded without consultation with a practitioner specializing
9 in pain management.

10 (ii) The rules regarding consultation with a practitioner
11 specializing in pain management must, to the extent practicable, take
12 into account:

13 (A) Circumstances under which repeated consultations would not be
14 necessary or appropriate for a patient undergoing a stable, ongoing
15 course of treatment for pain management;

16 (B) Minimum training and experience that is sufficient to exempt an
17 osteopathic physician's assistant from the specialty consultation
18 requirement;

19 (C) Methods for enhancing the availability of consultations;

20 (D) Allowing the efficient use of resources; and

21 (E) Minimizing the burden on practitioners and patients.

22 (b) Guidance on when to seek specialty consultation and ways in
23 which electronic specialty consultations may be sought;

24 (c) Guidance on tracking clinical progress by using assessment
25 tools focusing on pain interference, physical function, and overall
26 risk for poor outcome; and

27 (d) Guidance on tracking the use of opioids, particularly in the
28 emergency department.

29 (3) The board shall consult with the agency medical directors'
30 group, the department of health, the University of Washington, and the
31 largest association of osteopathic physician's assistants in the state.

32 (4) The rules adopted under this section do not apply:

33 (a) To the provision of palliative, hospice, or other end-of-life
34 care; or

35 (b) To the management of acute pain caused by an injury or a
36 surgical procedure.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.71 RCW
2 to read as follows:

3 (1) By June 30, 2011, the commission shall repeal its rules on pain
4 management, WAC 246-919-800 through 246-919-830.

5 (2) By June 30, 2011, the commission shall adopt new rules on
6 chronic, noncancer pain management that contain the following elements:

7 (a)(i) Dosing criteria, including:

8 (A) A dosage amount that must not be exceeded unless a **physician**
9 first consults with a practitioner specializing in pain management; and

10 (B) Exigent or special circumstances under which the dosage amount
11 may be exceeded without consultation with a practitioner specializing
12 in pain management.

13 (ii) The rules regarding consultation with a practitioner
14 specializing in pain management must, to the extent practicable, take
15 into account:

16 (A) Circumstances under which repeated consultations would not be
17 necessary or appropriate for a patient undergoing a stable, ongoing
18 course of treatment for pain management;

19 (B) Minimum training and experience that is sufficient to exempt a
20 physician from the specialty consultation requirement;

21 (C) Methods for enhancing the availability of consultations;

22 (D) Allowing the efficient use of resources; and

23 (E) Minimizing the burden on practitioners and patients.

24 (b) Guidance on when to seek specialty consultation and ways in
25 which electronic specialty consultations may be sought;

26 (c) Guidance on tracking clinical progress by using assessment
27 tools focusing on pain interference, physical function, and overall
28 risk for poor outcome; and

29 (d) Guidance on tracking the use of opioids, particularly in the
30 emergency department.

31 (3) The commission shall consult with the agency medical directors'
32 group, the department of health, the University of Washington, and the
33 largest professional association of physicians in the state.

34 (4) The rules adopted under this section do not apply:

35 (a) To the provision of palliative, hospice, or other end-of-life
36 care; or

37 (b) To the management of acute pain caused by an injury or a
38 surgical procedure.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 18.71A RCW
2 to read as follows:

3 (1) By June 30, 2011, the commission shall adopt new rules on
4 chronic, noncancer pain management that contain the following elements:

5 (a)(i) Dosing criteria, including:

6 (A) A dosage amount that must not be exceeded unless a physician
7 assistant first consults with a practitioner specializing in pain
8 management; and

9 (B) Exigent or special circumstances under which the dosage amount
10 may be exceeded without consultation with a practitioner specializing
11 in pain management.

12 (ii) The rules regarding consultation with a practitioner
13 specializing in pain management must, to the extent practicable, take
14 into account:

15 (A) Circumstances under which repeated consultations would not be
16 necessary or appropriate for a patient undergoing a stable, ongoing
17 course of treatment for pain management;

18 (B) Minimum training and experience that is sufficient to exempt a
19 physician assistant from the specialty consultation requirement;

20 (C) Methods for enhancing the availability of consultations;

21 (D) Allowing the efficient use of resources; and

22 (E) Minimizing the burden on practitioners and patients.

23 (b) Guidance on when to seek specialty consultation and ways in
24 which electronic specialty consultations may be sought;

25 (c) Guidance on tracking clinical progress by using assessment
26 tools focusing on pain interference, physical function, and overall
27 risk for poor outcome; and

28 (d) Guidance on tracking the use of opioids, particularly in the
29 emergency department.

30 (2) The commission shall consult with the agency medical directors'
31 group, the department of health, the University of Washington, and the
32 largest professional association of physician assistants in the state.

33 (3) The rules adopted under this section do not apply:

34 (a) To the provision of palliative, hospice, or other end-of-life
35 care; or

36 (b) To the management of acute pain caused by an injury or a
37 surgical procedure.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 18.79 RCW
2 to read as follows:

3 (1) By June 30, 2011, the commission shall adopt new rules on
4 chronic, noncancer pain management that contain the following elements:

5 (a)(i) Dosing criteria, including:

6 (A) A dosage amount that must not be exceeded unless an advanced
7 registered nurse practitioner or certified registered nurse anesthetist
8 first consults with a practitioner specializing in pain management; and

9 (B) Exigent or special circumstances under which the dosage amount
10 may be exceeded without consultation with a practitioner specializing
11 in pain management.

12 (ii) The rules regarding consultation with a practitioner
13 specializing in pain management must, to the extent practicable, take
14 into account:

15 (A) Circumstances under which repeated consultations would not be
16 necessary or appropriate for a patient undergoing a stable, ongoing
17 course of treatment for pain management;

18 (B) Minimum training and experience that is sufficient to exempt an
19 advanced registered nurse practitioner or certified registered nurse
20 anesthetist from the specialty consultation requirement;

21 (C) Methods for enhancing the availability of consultations;

22 (D) Allowing the efficient use of resources; and

23 (E) Minimizing the burden on practitioners and patients.

24 (b) Guidance on when to seek specialty consultation and ways in
25 which electronic specialty consultations may be sought;

26 (c) Guidance on tracking clinical progress by using assessment
27 tools focusing on pain interference, physical function, and overall
28 risk for poor outcome; and

29 (d) Guidance on tracking the use of opioids, particularly in the
30 emergency department.

31 (2) The commission shall consult with the agency medical directors'
32 group, the department of health, the University of Washington, and the
33 largest professional associations for advanced registered nurse
34 practitioners and certified registered nurse anesthetists in the state.

35 (3) The rules adopted under this section do not apply:

36 (a) To the provision of palliative, hospice, or other end-of-life
37 care; or

1 (b) To the management of acute pain caused by an injury or a
2 surgical procedure.

3 ***NEW SECTION. Sec. 8. (1) The boards and commissions required to**
4 **adopt rules on pain management under sections 1 through 7 of this act**
5 **shall work collaboratively to ensure that the rules are as uniform as**
6 **practicable.**

7 (2) On January 11, 2011, each of the boards and commissions
8 required to adopt rules on pain management under sections 1 through 7
9 of this act shall submit the proposed rules required by this act to the
10 appropriate committees of the legislature.

**Sec. 8 was vetoed. See message at end of chapter.*

Passed by the House March 11, 2010.
Passed by the Senate March 11, 2010.
Approved by the Governor March 25, 2010, with the exception of
certain items that were vetoed.
Filed in Office of Secretary of State March 26, 2010.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 8,
Engrossed Substitute House Bill 2876 entitled:

"AN ACT Relating to pain management."

The bill generally requires state health care boards and commissions
to adopt rules, including dosage standards, on chronic, noncancer pain
management. Section 8, however, requires that before final adoption,
these rules be submitted to the Legislature.

Members of the Legislature may review agency rules, proposed or final,
and their perspectives are valuable. However, requiring proposed
rules to be submitted to the Legislature would infringe upon the role
of the executive branch and would blur the distinction between the
Legislature and a state agency with regard to the rulemaking process.

For these reasons, I have vetoed Section 8 of Engrossed Substitute
House Bill 2876.

With the exception of Section 8, Engrossed Substitute House Bill 2876
is approved."