The mission of the Minnesota Board of Medical Practice is to protect the public's health and safety by assuring that the people who practice medicine or as an allied health professional are competent, ethical practitioners with the necessary knowledge and skills appropriate to their title and role.

Policy & Planning Committee
August 13, 2019
12:00 p.m.
5th Floor Board of Medical Practice Conference Room

Agenda

1. Potential Impact of Opioid Legislation on Patients and Providers
2. Planning for the 2020 Legislative Session
3. Other Business

Remaining 2019 Meeting Dates (12:00 p.m.)

October [TBD], 2019
November 12, 2019
December 10, 2019
From: Richard Lawhern <lawhern@hotmail.com>
Sent: Friday, July 12, 2019 9:56 PM
Subject: Public Input to State Medical Boards: Please Endorse Legislation to Deter the Exodus of Providers Out of Pain Management

To Executive Directors, administrators, and Department of Health staff associated with 32 State Medical Boards of Examiners

Please forward this correspondence to all sitting members of your State Medical Board, Insurance Board, Boards of Nursing and Physicians Assistants and Departments of Health, for immediate circulation to prepare for discussion in their next meeting.

Some of those receiving this note may not themselves be direct support staff to the intended Boards (for which my apology). But hopefully you will be aware of appropriate email portals through which the material below can be forwarded. I have located your addresses by searching websites identified at the US Federation of State Medical Boards; not all of these websites provide direct email contacts for this purpose.

I would appreciate referral to more appropriate public email portals, if you are aware of them.

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I speak and write widely as a technically trained non-physician subject matter expert on chronic pain and public policy for regulation of opioid analgesics. I have over 22 years hands-on experience, building and moderating social media support groups in chronic pain communities, with 70+ papers and articles published in a mix of medical journals and popular media. Those interested may survey some of my recent published work via the link in my signature below.

From this background, I ask you to address an issue of public policy that is fundamental to the work of State Medical Boards: the exodus of providers out of pain management practice, closure of regional pain treatment centers, and effective desertion of hundreds of thousands of patients.

Every day in social media, we see the narratives of patients whose doctors -- fearing sanction or DEA investigation -- have forcibly tapered their opioid therapy to levels below minimum effective range or worse, discharged them without support for opioid withdrawal. Patients are lapsing into horrendous pain, disability, and sometimes suicide.

You are doubtless receiving pleas for help directly from many patients and caregivers. This is madness!

I suggest that this medical disaster is wholly unnecessary, and that State Medical Boards need to participate in correcting the false policy narratives which have caused these outcomes. The so-called "war on drugs" has been turned into a "war against pain patients and their doctors". This has to change NOW, not next year! And you need to help change it.

Thus I commend for the reading of State Medical Boards, a recent editorial published on STAT News -- one of the most widely read healthcare news outlets in the US:


Stop persecuting docs for legitimately prescribing opioids for chronic pain - statnews.com
Government policy regarding opioid prescribing for chronic pain is a mess. Repealing the CDC guideline would help straighten things out.

www.statnews.com

In this article, I address several issues of which your Boards must surely be aware -- from a perspective not of opinion or professional self-interest, but rather based on 20 years of data published by the CDC on opioid prescribing, mortality, and demographics. I likewise review the widespread repudiation of 2016 CDC Guidelines on opioid prescribing to adults with chronic pain, by professional associations and academies representing over half of all US doctors and medical students.

Here's what the data show us.

-- America’s public health crisis in opioid addiction and mortality was not created by doctors "over-prescribing" to pain patients. And it isn’t being sustained from that source. Almost the entire public narrative surrounding regulation of medical opioids is ethically and factually wrong.

-- Today’s pain patient is almost never tomorrow’s addict.
-- Exposure to medically managed opioids is only rarely associated with addiction, and much of that association appears to be an outgrowth of genetic factors (A118 gene) that render less than 1% of all patients vulnerable to substance abuse on short exposure.

-- The contribution of medically managed opioids to addiction and mortality statistics is so small that it gets lost in the noise of illegal street drugs. Even diverted prescriptions trafficked through pill mills or stolen from left-over supplies in home medicine closets don't even move the meter.

A key statistic is directly pertinent to the premises of the many States Attorneys General who think they're going to turn pharmaceutical companies into the next cash cow, ala Big Tobacco. The demographics of prescribing and mortality don't work and they never have. People over age 55 have rates of opioid prescription for pain about three times higher than people under age 18. But seniors have the lowest overdose related mortality rates of all age groups and those rates have been stable for 20 years. Youth and young adults now have overdose mortality rates six times higher than seniors, and those rates have skyrocketed during the same period.

Please examine the chart below, extracted from an article I published a few months ago on the nationally respected blog of Dr Lynn Webster, former President of the American Academy of Pain Medicine. There is a real public health problem with opioids. But medical prescriptions didn't create that problem.

**Age Adjusted Opioid-Overdose Related Mortality by Year and Age Group**

(Dataset: Multiple Cause of Death, 1999-2017 Narcotics Related (T40.0-T40.6) Accidental and Intentional Drug Overdose Deaths [X42, X62])

Thus my bottom line: despite what appear to be predatory advertising and subsidy practices of various Pharma companies, it is now clear that they are for the most part correct on a central point: no practice of these companies can be demonstrated to have "caused" the opioid crisis. The real causes are unrelated to medical opioid exposure. They comprise structural poverty, the hollowing out of rural and suburban communities due to unemployment, increasing income and wealth inequality limiting social mobility, and the aggressive Cartel marketing of street drugs to populations made vulnerable by these socioeconomic factors.

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Once we understand the misdirection of present US and State policies which place physicians at risk for the "crime" of prescribing opioids to their patients, we must next ask how such policies can be changed. Given the enormous over-regulation momentum built up since 2016, I must suggest that Federal and State legislation will almost inevitably be needed. Anticipating this need, I have drafted model legislation. It is available from the link below in both embedded text and PDF. This draft legislation is known to thousands of patients and caregivers who are beginning to lobby their legislators to introduce and pass it as quickly as possible.

The act is known as "A Bill to Deter the Departure of Providers from Pain Management." I want your Board's public endorsement of
this important change in direction.

http://face-facts.org/lawhern/congress-clean-up-this-mess/

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Congress: Clean Up This Mess! - Face Facts

It is past time for Congress to correct the mess they have made of prescription opioid regulation. Call your representatives and demand that they 1) understand the problems they created, 2) work to repeal the CDC Guidelines, and 3) reign in regulators and law enforcement from the unfounded persecution of doctors.

face-facts.org

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Because regulatory policy in medical practice is largely set on a State by State basis, it may prove necessary to tailor this legislation. The knowledge base and resources of State Medical Boards will be needed to accomplish that end. I urge your Boards to deliberate on the policy changes outlined here, and to engage with our own legislatures to move forward rapidly. People in pain cannot wait.

Feel free to contact me. My cell phone is 703.216.0724 Eastern time.

Richard A "Red" Lawhern PhD

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Stop persecuting doctors for legitimately prescribing opioids for chronic pain

By Richard A. "Red" Law Hern

June 28, 2019

My wife and daughter are chronic pain patients. On behalf of them and others like them, I have spent 22 years moderating social media support groups and analyzing medical literature so non-doctors can understand it. My degree is in engineering, not medicine, though I’ve learned a great deal about pain, pain relief, and health care in the United States.

In the 50+ Facebook groups I support, I hear from people in agony every week. To protect identities, here are some paraphrases from online posts:

- My doctor forced me to taper down opioid therapy below a level that had for years given me relief from pain and good quality of life for years. Now I’m totally disabled and in constant pain.
- My doctor’s practice says they will no longer prescribe opioids to anyone. But no other pain center in our area is taking new patients.
- My doctor wants me to take Tylenol and learn to meditate.
- I can’t take much more of this.

Doctors should have gotten the message by now that deserting patients is a violation of medical practice standards, not to mention human rights. But they haven’t. To the contrary, they’ve been hearing about other doctors who got raided by Drug Enforcement Agency swat teams, their patients terrorized, medical records seized, and practices ruined by announcements in local news media. Compounding such brutal tactics, chain pharmacies have compiled high prescriber lists, blacklisting “top prescribing” physicians and denying prescription pain medication to their patients.

Much of the mess described by patients stems directly from the 2016 Centers for Disease Control and Prevention’s “Guideline for Prescribing Opioids for Chronic Pain.” In it, the CDC urged practitioners to avoid increasing opioid doses for new patients above daily doses of 50 morphine milligram equivalents (MME). For
patients maintained on doses above 90 MME, doctors were told to conduct and document risk and benefit reviews.

The CDC guideline became controversial almost immediately after it was published. Despite major criticism, it was widely interpreted by physicians, hospitals, insurance providers, state legislators, medical boards, and the DEA as a mandate for hard limits on prescribing opioids — even for so-called legacy patients for whom long-term or high-dose opioids had already proven safe and effective.

Related

**Faced with an outcry over limits on opioids, authors of CDC guidelines acknowledge they’ve been misapplied**

Since the publication of the guideline, the American Medical Association, the American Association of Family Physicians, and other organizations have repudiated the science, logic, and conclusions of the CDC guideline and of the DEA’s witch hunt. But nobody in government is listening to medical professionals any more than they are listening to patients.

In November, 2018, the American Medical Association’s House of Delegates issued its groundbreaking Resolution 235. It reads in part:

“... no entity should use MME (morphine milligram equivalents) thresholds as anything more than guidance, and physicians should not be subject to professional discipline, loss of board certification, loss of clinical privileges, criminal prosecution, civil liability, or other penalties or practice limitations solely for prescribing opioids at a quantitative level above the MME thresholds found in the CDC Guideline for Prescribing Opioids.”

In April 2019, under fire from medical professionals across the country, the CDC advised against “misapplication” of the guideline. Writing in the *New England Journal of Medicine*, three authors of the guideline said it was never intended to become a mandated standard, even though more than 30 states had incorporated it into legislation in the three years since its publication. At about the same time, the FDA issued a safety warning against rapidly tapering individuals off opioids or suddenly stopping their administration, based on known harms to patients.

As many patient advocates said at the time, the CDC and FDA announcements were too little too late. Tens of thousands of patients had already been deserted by their doctors or forced to give up the pain medications that had allowed them to function.

Related

**The chronic-pain quandary: Amid a reckoning over opioids, a doctor crusades for caution in cutting back**

Physicians have been stepping up their criticism of the CDC guideline and the DEA’s presence in their medical practices. Last month, the American Academy of Family Physicians and five other professional groups representing 560,000 physicians and students called on politicians to “end political interference in the delivery of evidence based medicine.” As they noted, “physicians should never face imprisonment or other penalties for providing necessary care. These laws force physicians to decide between their patients and facing criminal proceedings.”
On June 10, the AMA issued Board of Trustees Report 22, which, among other things, condemns the use of “high prescriber” lists by national pharmacy chains to blacklist high-prescribing physicians and prevent their patients from having pain prescriptions filled. Pharmacies aren’t the only ones using this tactic: Regional U.S. attorneys are also sending intimidating letters to “high prescribers,” warning them that their “prescribing practices may be contributing to the flow of prescription opioids into illegal markets and fueling dangerous addictions.” This claim, however, is not substantiated by medical evidence.

Against this background, there is an inconvenient fact that no one in government wants to hear: almost the entirety of the public narrative that shapes federal and state opioid policy is wrong. Using data published by the CDC itself, a colleague and I have shown that there is no relationship between state-by-state rates of opioid prescribing by doctors and overdose-related deaths from all sources of opioids, including legal or diverted prescriptions and illegal street drugs. In other words, there’s no cause and effect between prescribing rates and overdose deaths — and historical charting of the data reveal that hasn’t been the case in 20 years.

![State-by-state opioid prescribing rates aren’t associated with opioid overdose deaths](image1)

Even as rates of opioid prescribing dropped by 25% between 2011 and 2017, opioid overdose deaths continued to rise.

![Data from CDC Wonder](image2)

The central assumptions of government policy regulating medical opioids are directly contradicted by data on prescribing, mortality, and demographics. The implications are profound and obvious: regardless of the greed and
misdirection of a few bad apple doctors, government restrictions on prescribing opioids to pain patients are based on mythology, not fact. And overreach by the DEA is destroying tens of thousands of patients’ lives for no good reason. I hear everyday the stories of pain patients victimized by over-regulation. You can read some by scrolling through the comments on this STAT article, or this one.

Government policy for opioid pain relievers is now a vast tangle. Patients, families, and their doctors need somebody to cut this bureaucratic Gordian knot and end the madness. That somebody is Congress and the time is now — before governments lapse into even deeper paralysis during the 2020 election campaigns.

It is time for Congress to direct the CDC to withdraw its guideline for a ground-up rewrite by an agency like the NIH or FDA that actually knows what it is doing. Likewise, the Veterans Health Administration must be directed to withdraw its closely related “Opioid Safety Initiative.” Veterans tell me that medical practice standards embedded in the initiative are driving vets to suicide by denying them treatment with opioid pain relievers. Finally, the DEA must be told to stand down and stop persecuting doctors who are legitimately prescribing opioids to their patients with chronic pain for “over-prescribing,” something for which no agency has yet created an accepted definition.

There ought to be a law … and I volunteer to help write it. AMA Resolution 235 (described earlier) must become mandatory policy for all federal health care and law enforcement agencies: the CDC, FDA, NIH, DEA, VA, the National Institute on Drug Abuse, and the Department of Justice, to name just a few. Then state-level drug regulators and law enforcement need to be informed of the policy change — pointedly.

It is time to end the madness!

Richard A. “Red” Lawhern, Ph.D., is a non-physician patient advocate, moderator of online patient communities, and co-founder and former director of research for The Alliance for Treatment of Intractable Pain.

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