



REGULATORY UPDATE

Below is a listing of various regulatory activities which may impact ambulatory surgery centers we wanted to outline for WASCA members.

- 1.) *Tamper-Resistant Prescription Pads and Paper*: Beginning July 1, 2010, all prescribers must use tamper-resistant prescription pads or paper (TRPP) approved by the Washington State Board of Pharmacy. The paper has a characteristic pantograph watermark and must have the seal of approval of the Board of Pharmacy. TRPP must be used for all written and computer-generated printed prescriptions. However, TRPP does not have to be used when transmitting prescriptions by facsimile. Indeed TRPP should not be used when faxing prescriptions since the fax process will activate the watermark and indicate that the prescription is “void,” “invalid,” or a “copy.” These requirements are final.

For more information about the TRPP requirements, go to the TRPP page on the Board of Pharmacy website, at: <http://www.doh.wa.gov/hsqa/TRPP/Default.htm>.

- 2.) *Health Care Assistants*: The Department of Health is reviewing its regulations regarding health care assistants (HCAs). Currently HCAs must be certified by their supervising physician in one of seven distinct categories. The proposed new rules do not significantly alter or expand the requirements for each category of HCA, but reorganize how the categories are presented. The proposed rules can be viewed at: <https://fortress.wa.gov/doh/policyreview> . Once on this page click on the link for “Chapter 246-826.”

You may comment on the rules by following the URL below and clicking on “Add comment” on the line that begins “Chapter 246-826 WAC.”

<https://fortress.wa.gov/doh/policyreview/>. Comments must be received **no later than close of business June 4, 2010**.

- 3.) *Safe and Effective Analgesia and Anesthesia Administration in Office-Based Surgical Settings*: This proposed rule by the Medical Quality Assurance Commission (MQAC) will require physicians who perform office-based surgery using major conduction anesthesia, moderate sedation or analgesia or deep sedation or analgesia to obtain

certification or accreditation in good standing from either the Joint Commission; the Accreditation Association for Ambulatory Health Care; the American Association for Accreditation of Ambulatory Surgery Facilities; or the Centers for Medicare and Medicaid Services; among other requirements. Office-based surgery is defined as: means any surgery or invasive medical procedure requiring analgesia or sedation, including, but not limited to, local infiltration for tumescent liposuction, performed in a location other than a licensed hospital, a hospital associated surgical center, or an ambulatory surgical facility.

Comments on the rules must be received by the MQAC by May 25, 2010. The MQAC will hold a public hearing on the rules on **June 3, 2010**. For more information or a copy of the rule go to: <http://www.doh.wa.gov/hsqa/mqac/RulesInProgress.htm>

4.) DSHS Medicaid Rules Changes: The Department of Social and Health Services Health & Recovery Services Administration (DSHS-HRSA) is in the process of significantly amending administrative rules related to participation in the Medicaid program. Some concerns related to the proposed rules changes include having the effective date of an enrollment in the Medicaid program being the date it is approved (raising concern about bureaucratic delays and inability to be reimbursed for services provided prior to the approval date) and formalizing the DSHS-HRSA policy on termination for convenience without any opportunity for a hearing on the matter (raising concerns about DSHS-HRSA being able to terminate providers arbitrarily without being held accountable). The following is a summary of the proposed changes:

- NEW WAC 388-502-0002 Eligible provider types
- NEW WAC 388-502-0003 Noneligible provider types
- NEW WAC 388-502-0005 Core Provider Agreement (CPA)
- AMEND WAC 388-502-0010 When the department enrolls
- NEW WAC 388-502-0012 When the department does not enroll
- NEW WAC 388-502-0014 Review and consideration of an applicant's history
- NEW WAC 388-502-0016 Continuing requirements
- NEW WAC 388-502-0018 Change of ownership
- AMEND WAC 388-502-0020 General requirements for providers
- AMEND WAC 388-502-0030 Termination of a provider agreement – For cause
- NEW WAC 388-502-0040 Termination of a provider agreement – For convenience
- NEW WAC 388-502-0050 Provider dispute of a department decision
- NEW WAC 388-502-0060 Reapplying for participation
- AMEND WAC 388-502-0230 Provider payment reviews and dispute rights

The rules can be viewed in the attached document. The second attached document outlines the response of DSHS-HRSA to comments made in the external review. You can comment on the proposed rules by contacting Wendy Boedigheimer, Rules Program Manager at: wendy.boedigheimer@dshs.wa.gov **no later than close of business June 1, 2010.**

5.) *Labor & Industries – Medical Aid Rules*: For more information go to: <http://lni.wa.gov/LawRule/WhatsNew/Proposed/default.asp?RuleID=268>

- WAC 296-20-135 – The purpose of this rulemaking is to update the department's payment rates for health care services, which are published annually in the Medical Aid Rules and Fee Schedules. The changes were adopted 5/4/2010 and will be effective on 7/1/2010.
- WAC 296-20-1103 - The purpose of this rulemaking is to consider a revision to L&I's current payment methodology for injured workers reimbursed (with prior authorization) for travel expense when traveling to the nearest point of adequate treatment, prosthetic device fitting, or for vocational training. The supplemental proposed rule language is different from the original proposed rule language in that it does not impact travel for vocational services, such as vocational assessments and vocational counseling. An additional public hearing is scheduled for 1:30 p.m. on June 30, 2010, in room S118 of the Tumwater L&I office.

6.) *Permanent Rule – WAC 246-919-606 Non-surgical Medical Cosmetic Procedures (Medical Physicians) and WAC 246-918-126 Non-surgical Medical Cosmetic Procedures (Medical Physician Assistants)*: Defines the area of medicine and sets minimum standards for the performance and the delegation of non-surgical cosmetic procedures by physicians and physician assistants. A copy of the final rule is attached.