

Mercy Guidelines Meet New Florida Law Mandate

CHIROPRACTORS IN FLORIDA MUST ADOPT PRACTICE GUIDELINES BY
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Editorial Staff

On March 24, 1992, the governor of Florida passed into law the Health Care Reform Act of 1992. This sweeping revision to Florida health care laws included mandated practice parameters from all health care professions practicing in the state.

Reading the regulations regarding practice parameters required by the Health Care Reform Act, one would almost believe that the Florida Lawmakers had a copy of the Mercy Center Guidelines as a reference. It appears that the Mercy Center Guidelines will fulfill each aspect of section 408.02 of the new law regarding practice parameters.

Paul Watson-Lambert, Esq., president of the National Association of Chiropractic Attorneys (NACA) and general counsel for the Florida Chiropractic Association (FCA), made this statement:

"The 'Mercy Conference Practice Parameters' comes at the needed time for Florida chiropractors to respond to the most sweeping health care reform legislation seen in this state.

The 1992 Florida Legislature passed the '1992 Health Care Reform Act' which is 292 pages in length. The Florida Health Care Reform Act mandates a newly created Health Care agency in conjunction with the Florida Medical Association, the Florida Chiropractic Association, the Florida Podiatric Medical Association and other medical associations to guide the adoption and implementation of scientifically sound medical practice parameters for their respective practices in Florida to eliminate unwarranted variations in the delivery of health care. The practice parameters must be developed by January 1, 1993.

The Florida Health Care Reform Act further mandates the Florida Board of Medicine to review and adopt the practice parameters by rule. In other words, the Florida Board of Medicine will be defining, under the law as currently written, the practice parameters for Florida chiropractic.

Viewed differently, the Florida Health Care Reform Act is a target for health care reform and the 'Mercy Conference Practice Parameters' can be used as a gun. It's now up to the Florida chiropractic community to decide how to use and aim that gun at the health care reform target.

The reality of the Florida Board of Medicine setting chiropractic practice parameters is disquieting, unless the chiropractic community has its own document to submit for adoption. The 'Mercy Conference Practice Parameters' modified to conform to local law and custom can serve as that document.

The Florida Chiropractic Association through its statutory participation with the Florida Health Care Agency can offer the 'Mercy Conference Practice Parameters' modified to conform to local law and custom as the practice parameters to be adopted by the Florida Board of Medicine. It is unrealistic to believe that such a comprehensive document could have been prepared in the short

time provided by the Health Care Reform Act. That is why the 'Mercy Conference Practice Parameters' is an opportunity which came at the right time to be used with a positive force.

The Florida Health Care Reform Act gives the Florida Chiropractic Association two choices: We can let the Florida Board of Medicine decide for us what chiropractic practice parameters will be, or we can present a document for adoption that is persuasive. The 'Mercy Conference Practice Parameters' modified to conform to local laws and customs can be that document."

The new law requires the chiropractic profession in Florida to adopt "nationally developed practice parameters and risk management no later than January 1, 1993." The Mercy Center Guidelines are currently being considered by the Florida Chiropractic Association to fulfill this mandate.

The following is the section pertaining to practice parameters:

408.02 Practice Parameters -- The agency, in conjunction with the Florida Medical Association, the Florida Chiropractic Association, the Florida Podiatric Medical Association, and other medical organizations, shall guide the adoption and implementation of scientifically sound medical practice parameters for their respective practices in the state to eliminate unwarranted variations in the delivery of health care.

(1) the agency shall utilize reliable methodologies that integrate relevant research findings. Appropriate clinical expertise shall be used to develop practice parameters.

(a) The practice parameters shall be comprehensive, but shall provide guidance for the proper management of specific clinical situations.

(b) The agency shall provide for periodic reviews and revisions, where suitable, to ensure that practice parameters are based on the latest scientific findings.

(c) The adoption of practice parameters for services provided by diagnostic imaging centers and radiation services shall be considered a priority by the agency.

(2) The agency shall provide for wide distribution of the parameters to practicing physicians and other interested parties.

(3) The Department of Health and Rehabilitative Services is authorized to use the practice parameters adopted pursuant to this chapter in the utilization review of Medicaid and primary care services for the purpose of determining the effects of practice parameters on the quality of medical care and cost containment.

(4) The agency shall establish a demonstration project which will evaluate the effectiveness of practice parameters with regard to the costs of defensive medicine and professional liability insurance.

(5) Under the demonstration project, the Board of Medicine shall create an advisory committee. The advisory committee must complete the adoption of nationally developed practice parameters and risk management no later than January 1, 1993.

(a) The practice parameters must define appropriate clinical indications and methods of treatment.

(b) The practice parameters must establish standards of practice designed both to avoid liability claims altogether and to increase the defensibility of liability claims

when they occur, thereby eliminating the need of physicians who use the parameters to practice unnecessary defensive medicine.

(c) The Board of Medicine shall review the practice parameters and adopt them by rule.

(d) Physicians selected by the agency may elect to:

1. Participate in the demonstration project.

2. Practice in compliance with the practice parameters, beginning not later than June 1, 1993.

(e) a participating physician who is subsequently named as a defendant in a cause of action accruing on or after June 1, 1993, but before October 1, 1998, may introduce evidence of compliance with the practice parameters as an affirmative defense to a liability claim.

(6) Practice parameters that have been adopted pursuant to this section shall be used in conjunction with the basic health care benefit package developed pursuant to this chapter.

This new law is part of model legislation that is intended to be adopted in some form by most states across the country. The success of the chiropractic profession in Florida in addressing this mandate for guidelines is being watched closely by every state licensing board and state association. In Florida, practice guidelines are no longer an option, they are now the law.

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