

RULES AND REGULATIONS
RELATED TO PAIN ASSESSMENT
(R5-37.6-PAIN)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

May 2003

INTRODUCTION

These rules and regulations are promulgated under the authority contained in Chapters 5-37.6 and 42-35 of the General Laws of Rhode Island, as amended, and are established for the purpose of adopting requirements relating to the assessment of pain by health care facilities and health care providers in Rhode Island.

The Rhode Island General Assembly has found and has declared that: (1) pain affects quality of life, job performance and security; nearly thirty percent (30%) of nursing home residents with daily pain were receiving no pain medication of any form; pain untreated or under-treated adversely impacts the quality of life for patients; (4) up to ninety-five percent (95%) of terminally ill patients' pain can be relieved with adequate pain management; and too many Rhode Islanders are suffering and dying in needless pain.

Pursuant to the provisions of section 42-35-3(c) of the General Laws of Rhode Island, as amended, consideration was given to: (1) alternative approaches to the regulations; (2) duplication or overlap with other state regulations; and (3) significant economic impact placed on small business as defined in Chapter 42- 35 of the General Laws as a result of the amended regulations. No alternative approach, overlap or duplication nor any significant economic impact was identified, consequently the regulations are adopted in the best interest of the health, safety and welfare of the public.

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Section 1.0 *Definitions*

Wherever used in these rules and regulations, the following terms shall be construed as follows:

- 1.1 ***“The Act”*** means Chapter 5-37.6 of the Rhode Island General Laws, as amended.
- 1.2 ***“Assessment of pain”*** means the act of assessing an unpleasant sensation occurring in varying degrees of severity as a consequence of injury, disease, or emotional disorder.
- 1.3 ***“Department”*** means the Rhode Island Department of Health.
- 1.4 ***“Director”*** means the Director of the Rhode Island Department of Health.
- 1.5 ***“Faces rating scale”*** means a pain intensity tool that contains graphical representations of faces in various stages of pain intensity, with a happy face representing no pain and a tearful face representing the worst possible pain. (See Appendix "A").
- 1.6 ***“Health care facility”***, pursuant to Chapter 23-17 of the Rhode Island General Laws, as amended, means any institutional health service provider, facility or institution, place, building, agency, or portion thereof, whether a partnership or corporation, whether public or private, whether organized for profit or not, used, operated, or engaged in providing health care services, including but not limited to hospitals; nursing facilities; home nursing care provider (which shall include skilled nursing services and may also include activities allowed as a home care provider, or as a nursing service agency); home care provider (which may include services such as personal care or homemaker services or as a nursing service agency); nursing service agency; rehabilitation centers; kidney disease treatment centers; health maintenance organizations; free-standing emergency care facilities, and facilities providing surgical treatment to patients not requiring hospitalization (surgi-centers); hospice care, and physician ambulatory surgery centers/podiatry ambulatory surgery centers. The term "health care facility" also includes organized ambulatory care facilities which are not part of a hospital but which are organized and operated to provide health care services to outpatients such as central services facilities serving more than one health care facility or health care provider, treatment centers, diagnostic centers, rehabilitation centers, outpatient clinics, infirmaries and health centers, school-based health centers and neighborhood health centers; providing, however, that the term "health care facility" shall not apply to organized ambulatory care facilities owned and operated by professional service corporations as defined in Chapter 5.1 of Title 7, as amended (the "Professional Service Corporation Law"), or to a private practitioner's (physician, dentist, or other health care provider) office or group of the practitioners' offices (whether owned and/or operated by an individual practitioner, alone or as a member of a partnership, professional service corporation, organization, or association). Individual categories of health care facilities shall be defined in rules and regulations promulgated by the licensing agency with the advice of the Health Services Council. Rules and regulations concerning hospice care shall be promulgated with regard to the "Standards of a Hospice Program of Care", promulgated by national hospice organization. Any provider of hospice care who provides such hospice care without charge shall be exempt from the licensing provisions of Chapter 23-17 of the Rhode Island General Laws, as amended, but shall meet the "Standards of a Hospice Program of Care." Facilities licensed by the Department of Mental Health, Retardation and Hospitals, and the Department of Human Services, and clinical laboratories licensed in accordance with

Chapter 16.2 of Title 23, as well as Christian Science institutions (also known as Christian Science Nursing Facilities) listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc. shall not be considered health care facilities for purposes of Chapter 23-17 of the Rhode Island General Laws, as amended.

- 1.7 **"Health care provider"** means any person licensed by this state to provide or lawfully providing health care services, including, but not limited to, a physician, dentist, optometrist, nurse, podiatrist, physical therapist, nurse practitioner or physician assistant.
- 1.8 **"Numeric rating scale"** means a pain intensity tool that quantifies a patient's subjective pain for the health care provider. It may be visually or verbally administered and usually contains numbers 0--5 or 0--10 along a horizontal or vertical line, with 0 meaning "no pain" and 5 or 10 representing the worst pain imaginable. (See Appendix "A").
- 1.9 **"Pain"** means an unpleasant sensation that can range from mild, localized discomfort to agony. Pain has both physical and emotional components. The physical part of pain results from nerve stimulation. Pain may be contained to a discrete area, as in an injury, or it can be more diffuse, as in disorders like fibromyalgia. Pain is mediated by specific nerve fibers that carry the pain impulses to the brain where their conscious appreciation may be modified by many factors.

Pain means a usually localized physical suffering associated with bodily disorder (as a disease or an injury); also a basic bodily sensation induced by a noxious stimulus, characterized by physical discomfort (as pricking, throbbing, or aching) and typically leading to evasive action; pain also may include mental or emotional distress or suffering.
- 1.10 **"Pain intensity tool"** means a tool for the evaluation of a patient's subjective pain which is a component of pain assessment. Common pain intensity tools include: faces rating scales, visual analog scales, descriptive verbal response to pain, behavior observation scale, and numeric rating scales.
- 1.11 **"Person"** means any individual, trust or estate, partnership, limited liability corporation, corporation (including associations, joint stock companies, and insurance companies), state, or political subdivision or instrumentality of a state.
- 1.12 **"Regular basis"** means a procedure done on a customary, usual, normal, orderly, even, or symmetrical schedule.
- 1.13 **"Visual analog scale"** means a horizontal or vertical representation of pain, with "no pain" anchored at one end of the scale and "worst possible pain" anchored at the other end. The patient is asked to mark where the pain intensity falls along the continuum. (See Appendix "A").

Section 2.0 *General Requirements: Pain Assessment*

- 2.1 Health care facilities and health care providers, as defined herein, shall conduct an assessment of pain experienced by a patient on a regular basis, according to a written protocol established by the health care facility or health care provider, respectively.
- 2.2 Pain shall be assessed in all inpatients upon admission, using a combination of patient's self-report, a health care provider's assessment, and/or a pain intensity tool. Pain assessment shall provide for an evaluation of, and /or further testing to collect additional information to determine any underlying causes or reasons for, the identified presence and severity of pain. As appropriate, assessments shall utilize a pain intensity tool and address the location, duration, onset, and characteristics of pain, the patient's goals, and alleviation of causative factors. Physical examination shall be conducted as indicated.
- 2.3 Pain shall be assessed in all outpatients upon intake or initial evaluation using a combination of patient's self-report, a health care provider's assessment, and/or a pain intensity tool. Pain assessment shall provide for an evaluation of, and/or further testing to collect additional information to determine any underlying causes or reasons for, the identified presence and severity of pain. As appropriate, assessments shall utilize a pain intensity tool and address the location, duration, onset, and characteristics of pain, the patient's goals, and alleviation of causative factors. Physical examination shall be conducted as indicated.

Outpatients presenting for diagnostic tests only (e.g., laboratory studies, radiological examinations) shall be exempted from the pain assessment requirements herein.
- 2.4 On a regular basis, all patients shall be re-assessed for pain according to a written protocol established by the health care facility or health care provider.
- 2.5 All pain assessments and re-assessments shall be documented in the patient's clinical record.
- 2.6 More than one pain intensity tool may be used by the health care facility or health care provider. Provided, however, the same pain intensity tool shall be utilized consistently in assessing the same patient and provided the tool is, and continues to be, appropriate for the patient.
- 2.7 At least annually, health care facilities shall ensure competency in pain assessment among appropriate clinicians as designated by the health care facility.

Section 3.0 *Penalties*

- 3.1 Pursuant to section 5-37.6-7 of the Rhode Island General Laws, as amended, every person who shall willfully and continually violate the provisions of the Act will be subject to a fine up to one hundred dollars (\$100) for a first violation and any other remedy provided for in the Rhode Island law.
- 3.2 Every person who shall continuously violate the Act will be subject to a fine up to five hundred dollars (\$500) for each subsequent violation in addition to any other remedy provided for in the Rhode Island law.

Section 4.0 *Severability*

- 4.1 If any provision of the Act or any rule or regulation made under the Act, or the application of any provision of the Act to any person or circumstance shall be held invalid by any court of competent jurisdiction, the remainder of the Act, rule or regulation and the application of such provision to other persons or circumstances shall not be affected thereby. The invalidity of any section or sections or parts of any section of the Act shall not affect the validity of the remainder of the Act and to this end the provisions of the Act and the rules and regulations herein are declared to be severable.

Monday, April 28, 2003
pain assessment-final regs-may03.doc

APPENDIX A

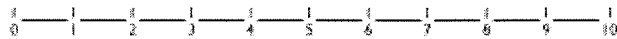
Pain Intensity Tools

Visual Analogue Scale



Directions: Ask the patient to indicate on the line where the pain is in relation to the two extremes. Measure from the left hand side to the mark

Graphic Rating Scale

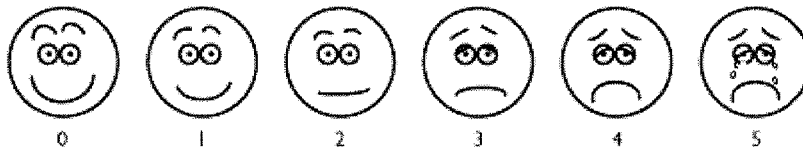


Verbal Rating Scales

0 = NO PAIN
10 = WORST POSSIBLE PAIN

0 = NO PAIN
100 = WORST POSSIBLE PAIN

Pain Faces Scale



0 = VERY HAPPY, NO HURT
1 = HURTS JUST A LITTLE BIT
2 = HURTS A LITTLE MORE
3 = HURTS EVEN MORE
4 = HURTS A WHOLE LOT
5 = HURTS AS MUCH AS YOU CAN IMAGINE
(Don't have to be crying to feel this much pain)

Appendix "B"

Listing of Educational Materials and Sources

The information in this Appendix was prepared by the Attorney General's Task Force to Improve End of Life Care. The Task Force and the Department are not responsible for the content of these materials. Further, the Task Force and the Department are not endorsing any of the materials found below.

National Resources:

American Academy of Hospice and Palliative Medicine

AAHPM is an organization for physicians who are committed to furthering and fostering the practice of hospice/palliative care for the terminally ill and their families.

Website: www.aahpm.org

American Association of Critical Care Nurses

AACN provides a practice resource network for assessing and managing acute pain in the emergency room.

Website: www.aacn.org

American Academy of Pediatrics

AAP provides information for assessing and managing pain in infants, children, and adolescents.

Website: www.aap.org/policy/aa33.html

The American College of Physicians/ American Society of Internal Medicine

ACP-ASIM is a medical specialty society designed to enhance the quality and effectiveness of health care by fostering excellence and professionalism in the practice of medicine.

Website: www.acponline.org/index.html

American Society for the Advancement of Palliative Care

ASAP Care is a personal effort to help expedite the reform of terminal health care practice.

Website: www.asap-care.com

American Society for Bioethics and Humanities

ASBH is a professional society of individuals, organizations, and institutions interested in bioethics and humanities.

Website: www.asbh.org

American Society of Law, Medicine and Ethics

ASLME provides high quality scholarship, debate, and critical thought to the community of professionals at the intersection of law, health care, policy, and ethics.

Website: www.aslme.org

American Society for Pharmacy Law

ASPL provides information about pharmacy law.

Website: www.aspl.org

Association of Cancer Online Resources, Inc.

The Association of Cancer Online Resources, Inc. (ACOR) is a non-profit patient advocacy organization founded to develop, support, and represent Internet based resources providing high quality, up-to-date information and support to cancer patients, and to provide open communication channels between and among patients, health professionals and research scientists.

Website: www.medinfo.org

Cancer Net

Cancer Net is a wide range of accurate, credible cancer information from the National Cancer Institute. The comprehensive cancer database includes summaries on cancer treatment, screening, prevention, and supportive care as well as information on ongoing clinical trials.

Website: www.cancernet.nci.nih.gov/

Centers for Disease Control and Prevention

The mission of CDC is to promote health and quality of life by preventing and controlling disease, injury, and disability.

Website: www.cdc.gov/

Center for Medical Ethics and Mediation

The Center for Medical Ethics and Mediation is an educational association dedicated to providing quality training, research, consultations, and mediations for healthcare professionals and organizations.

Website: www.wh.com/cmeme

Department of Health and Human Services, Healthfinder

healthfinder™ is a consumer health and human services information website, which can lead you to selected online publications, website, and not-for-profit organizations.

Website: www.healthfinder.gov

International Association for the Study of Pain

IASP is open to scientists, physicians, dentists, psychologists, nurses, physical therapists, and other health professionals actively engaged in pain research and to those who have an interest in the treatment of pain.

Website: www.pslgroup.com/dg/1ff02.htm

Last Acts

Last Acts is a call-to-action campaign dedicated to improving end-of-life care through the sharing of ideas and solutions by professional care givers, institutions, and individuals.

Website: www.lastacts.org

Mayday Pain Project

The Mayday Pain Project's goal is to increase awareness about pain management and to provide objective information about treating pain by population (pediatrics, geriatrics, etc.) or medical condition (cancer, arthritis, etc.).

Website: www.painandhealth.org

Medical College of Wisconsin Palliative Care Program

This program is committed to improving care for the dying in America through the development, implementation and dissemination of innovative education and clinical care programs.

Website: www.mcw.edu/pallmed/

Medicare Rights Center

The Medicare Rights Center (MRC) provides free counseling services to Medicare beneficiaries who cannot afford private assistance for Medicare-related issues.

Website: www.medicarerights.org

Memorial Sloan Kettering Cancer Center

Memorial Sloan Kettering Cancer Center's website provides a wide range of information for medical professionals, patients, their families, and the general public.

Website: www.mskcc.org

National Hospice Organization

Founded in 1978, the National Hospice Organization is the oldest and largest nonprofit public benefit organization devoted exclusively to hospice care. NHO is dedicated to promoting and maintaining quality care for terminally ill persons and their families, and to making hospice an integral part of the U.S. health care system.

Website: www.nho.org/

Pain and the Law

Pain and the Law provides information concerning pain statutes and regulations, malpractice and civil action, palliative care, and criminal actions.

Website: www.painandthelaw.org

Pediatric Pain

This site provides professional, research, and self-help resources for health care workers, researchers, and parents caring for children in pain.

Website: www.is.dal.ca/~pedpain/prohp.html

PeriOperative Pain

The PeriOperative Pain website provides guidelines and tools for the assessment and management of perioperative pain.

Website: www.perioperativepain.com

UW Pain and Policy Studies Group

The UW Pain and Policy Studies Group is the study of public policy in relation to pain management, identifying and addressing the barriers to medical use of opioid analgesic.

Website: www.medsch.wisc.edu/painpolicy

Local Resources:

Pain Relief Resource Guide. Therese Rochon, G. Patry and D.DeSilva, Brown University Center for Gerontology and Health Care Research and Rhode Island Quality Partners, Inc., funded by the Robert Wood Johnson Foundation Grant (2001) at:

www.riag.state.ri.us/Reports%20and%20Publications/pain%20resource/painTOC.htm

Clinical Resource Material: Pain, Nursing Home Public Reporting Quality Initiative, Rhode Island Quality Partners at www.riqualitypartners.org It includes a chapter on "Communicating to Physicians about Pain."

Choices and Conversations, A Guide to End of Life Care for Rhode Island Families, Aging 2000 (2000) at pages 13-15, www.aging2000.org/endof.htm. ***Choices and Conversations, A Guide to End of Life Care for Rhode Island Families*** provides patients with information to help them communicate to health care professionals about the pain they may be experiencing.

Dying with Dignity, the Rhode Island End of Life Conference Series Report, Attorney General Sheldon Whitehouse (2001), www.riag.state.ri.us ***Dying with Dignity, the Rhode Island End of Life Conference Series Report*** is a summary of a three part conference series sponsored by Attorney General Whitehouse, Brown Medical School, Rhode Island State Nurses Association, Rhode Island Medical Society, Rhode Island Bar Association, Aging 2000, American Association for Retired People, and the Rhode Island Department of Elderly Affairs.

Pain and Physical Symptoms, J. Teno, M.D., Brown University Center for Gerontology and Health Care Research, funded by Robert Wood Johnson Foundation Grant at www.chcr.brown.edu/pcoc/physical.htm *Pain and Physical Symptoms* is a review of pain assessment tools.

Rhode Island Contacts:

Aging 2000 is a Rhode Island consumer organization dedicated to improving the health care system for seniors. Aging 2000 is a grantee to establish the Rhode Island Partnership to Improve Care at the End-of-Life, a health care initiative which includes working with nursing homes to conduct several quality improvement efforts to enhance the quality of care of the dying. More information is available at: www.aging2000.org/endof.htm or contact Aging 2000, One Richmond Square, Providence, RI 401-521-7930 or 888-684-7200.

Attorney General Task Force to Improve End of Life Care is an Attorney General health care initiative to educate health care professionals and the public about pain awareness and management, hospice referrals, and advance care planning. More information is available at: www.riag.state.ri.us or contact the Office of Health Care Advocate, RI Department of Attorney General, 150 South Main Street, Providence, RI 02903 401-274-4400.

Brown University Center for Gerontology and Health Care Research conducts research concerning end of life care, including pain management. Under the direction of Joan Teno, M.D., the Brown University Center for Gerontology and Health Care Research has provided a Pain Relief Resource Guide, completed a pilot program concerning pain management in nursing homes, and continues to study end of life issues in Rhode Island. More information is available at: www.chcr.brown.edu or contact Joan Teno, M.D., Brown Medical School, Box G-HLL, Providence, RI 02912.

Rhode Island Cancer Council, Inc. The Cancer Council provides access to information about cancer and advocacy. The site contains a list of providers. More information is available at: www.ricancercouncil.org/about.htm

Statewide Cancer Registry. The Hospital Association of Rhode Island and the RI Department of Health collaborate to maintain the Rhode Island Cancer Registry, a statewide surveillance database related to Rhode Island's cancer patient population. More information is available at: <http://www.healthri.org/disease/cancer/canreg.htm>