CALIFORNIA MEDICAL ASSOCIATION

PHYSICIANS DEDICATED TO THE HEALTH OF CALIFORNIANS

Opioid Advocacy Update from CMA President

SEPT. 26, 2018

Dear Physician Colleagues,

From the beginning of the opioid epidemic, the California Medical Association (CMA) has been one of the most engaged and determined stakeholders working to strike a balance between patient access to necessary medicine and preventing and addressing abuse.

CMA has been a leader in advocating for increased funding, access and availability of preventive services, opioid-use disorder treatment programs and non-opioid therapies, including mental health services and medication-assisted treatment (MAT). We have successfully worked to stop legislation that interferes with the practice of medicine and creates barriers to care, such as government-mandated dosage and duration limits.

Over the last few years, the changing landscape surrounding prescribing opioids has been dizzying as payors, legislators, pharmacies and medical boards seek ways to be proactive in addressing the opioid epidemic – sometimes ignoring the actual realities of medical practice and creating barriers to good care. And as you're aware, California physicians have been engaged in the debate since the beginning, on behalf of our patients and profession.

CMA released a white paper, “Opioid Analgesics in California: Relieving Pain, Preventing Misuse, Finding Balance” in 2013. Developed through CMA’s Council on Science and Public Health, it has been the cornerstone of our work to educate physician colleagues, guide the medical board and policymakers, and help health care stakeholders navigate the evolving science related to opioids. At its core is the premise that care must be evidence-based and reflect the individual needs of the patient – ultimately, allowing physicians to make proper care decisions.

CMA’s emphasis on these principles has remained constant, including advocacy on opioid-related activities in 2018, which include:

Controlled Substance Utilization Review and Evaluation System (CURES): CMA has been working with the state for years to ensure adequate educational and technical support for physicians who will have to **check CURES as part of their prescribing workflow**, starting on October 2, 2018. CMA has advocated for sustained user outreach and educational efforts by the state that provide clarity of this new law, as well as prioritize the clinician perspective on an ongoing basis following implementation. We will continue to engage as the new requirement to consult CURES is implemented and work with stakeholders to ensure CURES has adequate support.

Ensuring Fair Enforcement: The Medical Board of California is examining deaths associated with the use of prescription opioids and is reviewing whether the care and treatment provided by physicians to those individuals met the standard of care. As part of a “routine” review, the board sent letters to physicians who were identified as prescribing opioids in a manner that, after physician review, merited further investigation, and requested that those physicians submit additional information including a summary of the care provided, the patient’s medical records, and any additional materials that would be pertinent to the board’s investigation.

CMA has raised concerns about the board's process and will continue to work with the board to address physician concerns, monitor the board's process to determine whether disciplinary actions are based on the appropriate standard of care, and if the process used to identify physicians subject to these inquiries needs additional transparency or modification. Physicians who are under review may contact CMA (800-786-4262, **CMAdocs.org**) for information about the disciplinary process and their legal rights.

Access to Medication-Assisted Treatment and Overdose Reversal Medications: To help reduce the rates of overdose and stigma associated with opioid-use disorder, CMA sponsored AB 2384 (Arambula), which would have removed barriers to coverage of MAT services and naloxone to ensure that people who face addiction have better access to treatment. Governor Jerry Brown vetoed AB 2384, claiming a need for utilization controls and barriers to patient access of life-saving treatments. In response, CMA issued a statement expressing disappointment and concern, while reiterating our intention to work with the next governor to make this issue a priority in 2019.

The federal opioid bill continues to push treatment in the right direction by providing grants to improve access to MAT and codifying the ability for physicians to prescribe MAT for up to 275 patients, which is critical since the current caps are far too limiting and leave many patients on waiting lists for years.

Individual Patient Care: At the federal level, CMA successfully fought back against legislation that would have required one-size-fits-all medicine by mandating prescription drug dosage and duration limits.

California legislators also sought to statutorily limit dosages and durations of opioid pain relievers through AB 2741 (Burke) and AB 1998 (Rodriguez), using arbitrary and minimal amounts. Both bills were defeated earlier this year.

Federal Funding and the Congressional Opioid Crisis Response: Earlier this year, Congress approved $10 billion in new funding for states to address opioid-related education, prevention, treatment and law enforcement issues. The House and Senate reached an agreement on the "Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act," and they will send it to President Donald Trump soon. It is a comprehensive package of more than 300 bills that, among other things, provides grants to states to address prevention and treatment, as well as stop the flow of illicit drugs, such as fentanyl. It also expands the number of Institute for Mental Diseases inpatient Medi-Cal beds available for opioid substance abuse disorder treatment and enhances Medi-Cal patient access to non-opioid options. Medicare coverage for treatment has been expanded, with new Medicare payment and delivery demonstration projects approved for comprehensive management of opioid-use disorder.

Unfortunately, the bill package also includes a mandate for physicians to e-prescribe controlled substances for Medicare patients after January 1, 2021. However, it includes many exceptions, and it directs the Centers for Medicare and Medicaid Services to implement additional exceptions. In a major win, the Drug Enforcement Administration (DEA) has been mandated to update its antiquated and burdensome process for e-prescribing. While more than 90 percent of physicians e-prescribe, only 21 percent e-prescribe controlled substances, largely due to the DEA's burdensome requirements. The state mandate takes effect in 2022.

Physician Education on Safe Prescribing and Treatment: Governor Brown recently signed AB 2487 (McCarty), which originally mandated all California physicians to take an eight-hour course required to qualify for a federal waiver to the Drug and Addiction Treatment Act of 2000 in order to allow physicians to prescribe MAT drugs, like buprenorphine, outside of an opioid treatment center.

After CMA-led negotiations with the author, the bill was amended to allow physicians who seek to prescribe MAT to fulfill their annual continuing education requirement by completing the DATA-Waivered Physician course along with four additional credit hours on treating substance use disorders. Successful advocacy prevented additional and mandatory continuing education.

The road has been long and hard-fought, and California's comprehensive approach has focused on safe prescribing, naloxone distribution, public education campaigns, local opioid safety coalitions and increasing access to treatment, including MAT.

This approach has produced promising results. From 2013-2017, California experienced over a 24 percent decrease in opioid prescriptions, and is only one of five states with a multi-year decrease in prescription opioid overdoses. California is now tied for the lowest per capita opioid prescription rate in the country, while opioid prescribing has decreased for the fifth year in a row.

More work remains, as the drugs responsible for these overdose deaths are changing and have been spurred by illicit fentanyl. CMA will continue to work with policymakers, elected officials and health care stakeholders to ensure your voice – and your patients' voices – are heard.

I want to thank our physician members for their dedication to finding a balance between prescribing controlled substances safely and effectively to relieve pain, while simultaneously reducing the risk of prescription medication misuse, addiction and overdose.

Sincerely,
Theodore M. Mazer, M.D.
CMA President

ADDITIONAL RESOURCES:

White Papers:

- **Prescribing Opioids: Care Amid Controversy, Recommendations from the California Medical Association's Council on Scientific Affairs** (2014)
- **Opioid Analgesics in California: Relieving Pain, Preventing Misuse, Finding Balance** (Login required) (Executive Summary) (2013)

Webinars:

- **CURES 2.0: Navigating the State's New Prescription Drug Monitoring Database**
- **CURES: Preparing for the New Duty-to-Consult Requirement**

Health Law Library Documents:

- #2002: **Medical Board Investigations**
- #3200: **Controlled Substances: Dispensing**
- #3201: **Controlled Substances: Prescribing**
- #3202: **Drug Prescribing: Unauthorized**
- #3203: **Drug Dispensing (Not Schedule II-V Drugs)**
- #3205: **Drug Prescribing (Not Schedule II-V Drugs)**
- #3207: **Electronic Prescribing**
- #3210: **Pain Management**
- #3212: **California's Prescription Drug Monitoring Program: CURES**