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New State Regulations for Healthcare Providers Who Prescribe Controlled Substances for Treatment of Pain

On February 11, 2011, new strict requirements on healthcare providers who prescribe controlled substances for the treatment of pain went into effect. Practitioners who treat chronic pain must meet new documentation requirements, representing a significant change from prior practice.

According to the new rules, the key to meeting the standard of care in administering controlled substances is to document a diagnosis of unrelieved pain along with sound clinical judgments. Here are some of the documentation requirements:

1. An in-depth medical history;
2. A treatment plan with outlined goals and objectives;
3. Informed consent;
4. A pre-treatment agreement;
5. Periodic reviews and regular consultation with the practitioner;
6. All records must be retained in an accessible manner.

How will these new rules affect payments in auto insurance cases? It is too soon to know how this will finally play out. Several healthcare providers have told me they are concerned that payment for treatments and medications may be slowed or even denied if the documentation is not complete. However, such conduct would violate Delaware law, which requires prompt payment for bills and medications that are reasonable, necessary and related to the accident.

The new rules should not have much of an effect in worker's compensation claims. There are already some fairly strict guidelines for prescribing medications in chronic pain patients.

If you would like to read the new rules in their entirety, please visit: <http://regulations.delaware.gov/AdminCode/title24/1700.shtml>, beginning at section 32.0.

We are interested in your feedback about the rules and what effect they have on your reimbursements from auto and worker's compensation insurance. You can e-mail me at: EricDoroshow@dplaw.com or call 1-800-632-9230.

Sincerely,

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