In HHS Task Force Pain Recommendations, a Missing Dimension

By Richard "Red" Lawhern — March 6, 2019

Chronic pain communities are by now aware that the US Department of Health and Human Services is reviewing existing clinical practice guidelines on pain management to make recommendations to Congress concerning gaps, overlaps, and needed updates. A 29-member expert Task Force on the subject has worked almost a year and will report final recommendations by May 2019. A 100 page draft of their recommendations (with 446 references) is posted at [link https://www.hhs.gov/ash/advisory-committees/pain/reports/index.html]. The public may comment until April 1, 2019. The Federal Register docket already shows nearly 2,000 comments, and the HHS email gateway has doubtless received many more.

The Task Force has done a ton of constructive work, and a lot of that work is very patient-centered. As a non-physician subject matter expert in this area of public policy, I find a lot to applaud. I’ve also contributed both on my own and as a co-author with medical professionals. One very recent paper can be found at [Link: https://www.practicalpainmanagement.com/painscan/abstract/draft-report-pain-management-best-practices-updates-gaps-inconsistencies]. I have twice spoken before the Task Force in their public meetings, and submitted extensive written comments. To save them time and work, I this week submitted an end-to-end “line in / line out” revised draft of the entire document, integrating corrections of research and highlighting concerns among pain communities.
This has been time well spent.

The Task Force still has a distance to go in a very political process. Some of the thorniest issues go beyond what they have written so far. Important questions that they weren’t asked by Congress beg for answers. The Task Force whole body of work will be for nothing unless they take some bulls by the horns. They need to make explicit recommendations to address outright misbehavior among State regulators, legislators, DEA and law enforcement. Regulatory and prosecutorial over-reach puts physicians at risk of losing their licenses and drives them out of practice if they try to help people in agony.

I’ve submitted the following, to help the Task Force step up to this job.

“Extensive comments to the Task Force make clear that overly aggressive law enforcement and hostile State regulatory policy have been key factors in driving large numbers of physicians out of pain management practice, often deserting patients without referral. Whole areas of several States are currently without pain management centers. To correct these conditions, reestablish trust, and attract vitally needed healthcare providers back into the field, significant and publicly visible changes to drug control policy must occur. Failing such changes, patients will continue to be under-treated for pain, while non-medical dimensions of the US opioid “crisis” continue unabated.

- **Recommendation 1:** The US Drug Enforcement Agency (DEA) should be directed to develop and publish a National Investigative Practice Standard for evaluation of potential drug diversion or inappropriate prescription by healthcare providers engaging in “pill mill” activity. Gross volume of prescribing is not by itself an adequate standard for opening an investigation, absent an understanding of physician’s practice and their patient population. A consensus Standard should become recommended practice for all US and State investigative organizations.

- **Recommendation 2:** DEA should also be directed to analyze available geographic data on Scheduled drug distribution patterns, to identify US counties where volumes of opioid medications appear to exceed local or adjacent-county medical market needs. Investigative resources may need to be focused on these counties.

- **Recommendation 3:** DEA is unqualified to objectively identify medical opioids which are “subject to diversion”, and thus should not be authorized to restrict on this basis, the volume of opioids manufactured to meet medical market needs.

- **Recommendation 4:** DEA and State law enforcement should be directed to unequivocally end practices which violate judicial due process. These practices include confiscation of individual physician assets, and release of public announcements of investigations against named doctors, prior to completion of court proceedings. Also of deep concern on similar grounds are “Death Certificate Projects” and letters from State Medical Boards or prosecutors to physicians deemed to be “high prescribers”.

- **Recommendation 5:** US State legislatures should be encouraged to consider review and repeal of laws or regulations which restrict doctors from providing pain treatment which they are qualified by training, licensure and experience to render.
There are, of course, many other dimensions in declaring a truce in America’s war against pain patients and a needed redirection of its war on drugs. Further articles here at National Pain Report will report on some of those dimensions.

Source URL: https://www.acsh.org/news/2019/03/06/hhs-task-force-pain-recommendations-missing-dimension-13858

Links
[1] http://nationalpainreport.com/a-missing-dimension-in-hhs-task-force-recommendations-on-pain-8838962.html?fbclid=IwAR1nfXiaNgo63r_o9i_Wb10id0TAEYof5xPbXKjTr1UQONpzWAiK44Nz1ro