

## Minutes

### Dietetics-Nutrition and Electrolysis Committee Florida Board of Medicine Telephone Conference Call January 7, 2009

Dr. Bearison called the meeting to order at 12:20 P.M.

Mr. McPherson called the roll and determined that the committee had a quorum.

**Attendees:**

Elizabeth Tucker, M.D., Acting Chair  
Jason Rosenberg, M.D.  
Bradley Levine

**Absent:**

Trina Espinola, M.D. (Excused)

Larry McPherson, Executive Director  
Ed Tellechea, Senior Asst. Atty. General  
Nancy Murphy, Paralegal  
Donna McNulty, Senior Asst. Atty. General  
Gwyn Willis, Board Staff  
Ivy Shivers, Dietetics-Nutrition/Electrolysis Council  
Jon Pellett, Esq.

Dr. Tucker acted as Chair because Dr. Espinola was unable to attend.

#### **Tab #1 Electrolysis Council Rule Changes**

- **64B8-54.003 F.A.C.** Mr. Tellechea stated that he had reviewed this rule which implemented statutory changes for HIV continuing education and it was appropriate for approval.

**Action Taken:**

**64B8-54.003 F.A.C.** Mr. Levine made a motion to ratify this rule as it is written. The motion was seconded and it passed unanimously.

- **64B8-54.004 F.A.C.** Mr. Tellechea stated that the committee should not reconsider this proposed rule change regarding instructor qualifications because the Board had previously considered the matter and approved a different proposed rule change which has been noticed for final approval.

**Action Taken:**

**64B8-54.004 F.A.C.** No action was taken on this because it had been approved by the Board and noticed on December 19, 2008.

- **64B8-54.0022 F.A.C.** Mr. Tellechea stated that there was an issue with the proposed rule changes regarding the 5 year period for certain reactivation requirements. He stated that the Council can require the inactive licensee (64B8-54.0022 (2) FAC) to meet certain conditions but the Council cannot statutorily

require the licensee to take the licensure examination. For licensees in retired status (64B8-54.0022 (3) FAC) 7 years or longer, the Council can require the licensee to retake some sort of examination but not the licensure examination.

He further stated that there is a problem with the time frame to reactivate a license because the renewal is a biennium (2 years) and this rule uses a 5 year time frame. There is an additional year that does not meet the statutory requirements. He recommends that the Committee table this rule and ask the Council rewrite the rule language to comply with the statute and the licensing biennium.

**Action Taken:**

**64B8-54.0022 F.A.C.** Mr. Levine made a motion to table this rule and return it to the Council for changes to meet the statutes. The motion was seconded by Dr. Tucker and it passed unanimously.

- **64B8-55.0021 F.A.C.** Mr. Tellechea stated that the Joint Administrative Procedure Committee(JAPC) would not accept the use of the word “may” as used in section (1) (c) of the rule regarding certain discipline provisions. He recommended that the phrase “and/or may” be changed to “or”. He further stated that JAPC views use of “and/or may” as “unbridled discretion given to the Board”

The Board of Medicine can make a determination about the Statement of Estimated Regulatory Costs(SERC) on this rule since the SERC was not included with the proposal.

**Action Taken:**

**64B8-54.0021(1) (c) F.A.C.** Mr. Levine made a motion to approve the change to the rule. The phrase “and/or may” would be omitted and only the word “or” would be added to the rule in order to make the rule change acceptable to JAPC. Dr. Tucker seconded the motion and it passed unanimously.

Mr. Tellechea stated that the Council needs to determination a Statement of Estimated Regulatory Costs(SERC) on this rule.

**Tab #2 Dietetics-Nutrition proposed rule changes**

Mr. Tellechea stated that he had reviewed the rules listed below and the Statements of Estimated Regulatory Costs(SERC). He stated that the rules and SERC’s met the requirements.

- **64B8-45.001 F.A.C. regarding examination requirements**
- **64B8-45.002 F.A.C. regarding continuing education credits**
- **64B8-44.005 F.A.C. regarding citation penalties**

**Action Taken:**

Dr. Rosenberg made a motion to approve the rule changes and the related SERC’s. The motion was seconded and it passed unanimously.

### **Tab #3 Dietetics-Nutrition Rule Change and Changes to the Application**

Mr. Tellechea stated that he had reviewed the continuing education rules listed below and that the rule changes were appropriate for approval.

- **64B8-42.001 F.A.C. Licensure by Endorsement**
- **64B8-42.002 F.A.C. Licensure by Examination**

Mr. Tellechea stated that he had reviewed the Nutrition-Dietetics application and it met the requirements.

#### **Action Taken:**

**64B8-42.001 F.A.C. and 64B8-42.002 F.A.C.** Mr. Levine made a motion to approve the changes to these rules. The motion was seconded and it passed unanimously.

**Dietetics-Nutrition Application** Dr. Rosenberg made a motion to approve the application. The motion was seconded and it passed unanimously.

The meeting adjourned at 12:38 P.M.