

1 Meeting Report  
2 Department of Health  
3 Board of Medicine  
4 Rules/Legislative Committee Meeting  
5 Rosen Plaza Hotel  
6 9700 International Dr  
7 Orlando, FL 32819  
8 (407) 996-9700  
9 February 3, 2011

10  
11 Roll Call 4:12 p.m.

12  
13 **Rules Discussion:**

14  
15 **Rules Report .....1**

16 This report, provided by Ms. Murphy, is a listing of all pending rules and their status.

17  
18 No action necessary.

19  
20 **Rule 64B8-3.003, FAC – Fees .....2**

21 The members reviewed draft language that would decrease the renewal licensure fee from \$360  
22 to \$342.

23  
24 A motion was made, seconded and carried unanimously to recommend approval of the draft  
25 language.

26  
27 A motion was made, seconded and carried unanimously to recommend finding no statement of  
28 estimated regulatory costs is required because this rule change would not have an economic  
29 impact on small business.

30  
31 Mr. Tellechea explained this rule cannot go forward until approved by the Office of Fiscal  
32 Accountability and Regulatory Reform (OFARR).

33  
34 **Action taken:** language approved; no SERC required; present to OFARR

35  
36 **Legislative Discussion:**

37  
38 **SB 100 – Autism .....3**

39 This bill, among other items, requires a physician to refer minors to a specialist for autism  
40 screening in certain circumstances.

41  
42 A motion was made, seconded and carried unanimously to recommend remaining neutral on this  
43 bill.

44  
45 **Action taken:** neutral

46  
47 **SB 334 – Controlled Substances .....4**

48 This bill requires an individual with knowledge of a health care practitioner who prescribes or  
49 dispenses controlled substances is abusing or stealing, to report to a law enforcement agency.

1  
2 The Committee was unable to determine the chapter of Florida Statutes this would apply.

3  
4 A motion was made, seconded and carried unanimously to recommend remaining neutral on this  
5 bill.

6  
7 **Action taken:** neutral

8  
9 **SB 96 – Mammogram Reports .....5**

10 This bill requires all mammogram reports include specific language.

11  
12 A motion was made, seconded and carried unanimously to recommend remaining neutral on this  
13 bill.

14  
15 **Action taken:** neutral

16  
17 **SB 310 – Public Meetings .....7**

18 Mr. Tellechea explained the sunshine law gives individuals the right to attend public meetings.  
19 This law would allow individuals the right to speak and be heard at public meetings. He believes  
20 this may have a direct impact on how the Board operates.

21  
22 A motion was made, seconded and carried unanimously to recommend remaining neutral on this  
23 bill.

24  
25 **Action taken:** neutral

26  
27 **HB 155 – Firearms .....9**

28 This bill prohibits physicians from asking patients if a firearm is present in the home and  
29 prohibits basing receipt of medical care on the patient’s refusal to provide personal and private  
30 information.

31  
32 A motion was made, seconded and carried unanimously to recommend opposing this bill on the  
33 basis of patient safety issues and that anything contained in a medical record is considered  
34 confidential information.

35  
36 **Action taken:** oppose on the basis of patient safety issues

37  
38 **HB 187 – Streamlining Licensure Process..... 10 (Addendum CD)**

39 This bill would streamline the licensure process for businesses attempting to gain licensure in  
40 Florida and creates a One-Stop Business Workgroup. The workgroup includes representative  
41 from the Department of Health.

42  
43 A motion was made, seconded and carried unanimously to recommend remaining neutral on this  
44 bill.

45  
46 **Action taken:** neutral

47  
48 **HB 321 – Abortion ..... 11 (Addendum CD)**

49 This bill requires physicians to determine the probable post fertilization age of an unborn child  
50 prior to performing an abortion and sets out other related regulations.

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2 A motion was made, seconded and carried with one opposed to recommend remaining neutral on  
3 this bill.

4  
5 **Action taken:** neutral

6  
7 **HB 4039 – Repeal of Chapter 485, FS (Hypnosis) ..... 12 (Addendum CD)**

8 This bill repeals regulation of hypnotists.

9  
10 A motion was made, seconded and carried unanimously to recommend remaining neutral on this  
11 bill.

12  
13 **Action taken:** neutral

14  
15 **HB 471 – Cord Blood Banking ..... 13 (Addendum CD)**

16 This bill requires pregnant women be educated about umbilical cord blood banking.

17  
18 A motion was made, seconded and carried unanimously to recommend remaining neutral on this  
19 bill.

20  
21 **Action taken:** neutral

22  
23 **HB 479 – Medical Malpractice .....Supplemental provided at meeting**

24 Mr. McPherson explained this bill would create an expert witness certificate registration program  
25 for individuals not licensed in Florida as a medical doctor or osteopathic physician to testify in  
26 court proceedings. He said registration would cost \$50 and the Department of Health could be  
27 required to register individuals within five days or the registration would be issued by default.  
28 He further explained the only requirement is for the physician to have an active, valid license.  
29 He reminded the Committee that the Board previously supported expert witness registration bills.  
30 Mr. McPherson went on to explain administrative concerns in implementing this provision and  
31 an issue with whether the physician has discipline in the state he/she is licensed is considered  
32 :”valid and active” in that jurisdiction.. This bill does not give the Board authority to check the  
33 physician’s credentials.

34  
35 Mr. Tellechea stated the bill created unnecessary work for the Board. He explained the intent is  
36 to give the Board jurisdiction of expert witnesses. He was concerned the bill provided no  
37 authority to deny a registration.

38  
39 Dr. J. Rosenberg stated he strongly supported the concept.

40  
41 Holly Miller, representing the Florida Medical Association (FMA) addressed the Committee.  
42 She understood the five day requirement was problematic but at the same time, the FMA does  
43 not want to deter physicians from coming to Florida to provide quality expert testimony.

44  
45 Mr. Tellechea suggested adding language that would allow the Board or their designee to  
46 approve registrations. He said staff can provide a list at the next meeting for the Board to ratify.

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48 Dr. Bearison pointed out the bill requires the Board to draft rules.

49  
50 Mr. Tellechea stated he did not believe rules would be necessary.

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Mr. McPherson explained the process for registering an expert witness and stressed five days was not enough time.

Mr. Tellechea pointed out the rule making process has changed and would take longer than the 90 days mentioned in the bill.

A motion was made, seconded and carried unanimously to support the bill in concept; however it needs some word smithing to make it consistent with Department operations.

**Action taken:** support bill in concept; needs revision to be consistent with actual operations  
**Transcript ordered**

**Bill Matrix ..... Supplemental (thumb drive at meeting)**

This was provided as information. This document provides individual comments for each bill.

No action necessary.

**Other:**  
**Governor’s Executive Order RE: Suspension of Rulemaking .....6**

Mr. Tellechea summarized this order which suspends all rulemaking. He reminded the Board they agreed to suspend all rule making efforts with the exception of the pain clinic rules. He said that the Governor has agreed to allow the pain management clinic standards of practice rules to be filed with the Legislature.

He went on to say the pain management clinic inspection rule will go through the process but it does not have an economic impact.

Mr. Tellechea stated the rule regarding the maximum number of prescriptions will not be ratified without going through the rule making process and the Governor has agreed to allow this rule to be notice with the FAW and ultimately filed with the Legislature.

Mr. Tellechea stated the training requirements for physician’s practicing in pain management clinics does not require ratification because it does not have an economic impact. It will go through the rulemaking process and has the Governor’s approval.

Mr. Tellechea explained the accreditation rule will not move forward at this time. It does not pose a patient safety issue and can wait until a later date.

Mr. Tellechea explained that each state agency is required to undergo a complete rule review. The Department General Counsel has advised Mr. Tellechea the Department would do the rule review for the Board of Medicine. Mr. Tellechea advised he would be involved in the process.

**Jeremy Knipp & Brian Kiser vs. State of Florida .....8**

This was provided for informational purposes.

No action necessary.

**New Business ..... No tab**

1 **SB 742..... Hand out**

2 This bill requires the licensure of surgical first assistants and provides other related requirements.

3  
4 Mr. Mullins expressed concern there may not be enough surgical first assistants to sustain the  
5 related licensure costs.

6  
7 Dr. J. Rosenberg believed the intent of the bill is related to insurance and reimbursement issues.

8  
9 Mr. Tellechea stated the bill created unnecessary work and there must be another avenue to  
10 resolve the reimbursement issue.

11  
12 A motion was made, seconded and carried unanimously to recommend remaining neutral on this  
13 bill.

14  
15 **Action taken:** neutral

16  
17 Mr. McPherson thanked the members for sending responses related to these bills quickly and to  
18 Ms. Sanford for compiling the information into the bill matrix.

19  
20 Dr. Bearison also thanked Ms. Sanford for the matrix and the members for assisting in this  
21 important task.

22  
23 The meeting adjourned at 5:14 p.m.