

**Meeting Report  
Department of Health  
Board of Medicine  
Rules/Legislative Committee Meeting**

**Marriott Tampa Airport  
4200 George Bean Parkway  
Tampa, FL 33607  
(813) 879-5151**

**February 4, 2010**

Roll Call 4:01 p.m.

**Members Present:**

Jason Rosenberg, M.D., Chair  
Donald Mullins, Consumer Member – arrived at 4:50p  
Steven Rosenberg, M.D.  
H. Frank Farmer, M.D.  
Michael Chizner, M.D.  
Onelia Lage, M.D.  
Fred Bearison, M.D.

**Members Absent:**

**Staff Present:**

Larry McPherson, Jr., J.D., Executive Director  
Ed Tellechea, Board Counsel  
Donna McNulty, Board Counsel  
Nancy Murphy, Paralegal  
Whitney Bowen, Board Staff

**Others Present:**

Suzette Bragg, American Court Reporting

**Rules Discussion:**

**Tab 1 - Rules Report – Information Only**

This report was provided for information only.

**Tab 2 - Rule 64B8-8.0011, FAC – Standard Terms Applicable to Final Orders**

Ed Tellechea explained that at the December 2009 Meeting this committee discussed the requirement for community service hours be confirmed by an official from the organization where the community service was preformed, not by the licensee required to complete the hours. If the Committee wished to do this, it must be added to the Standard Terms of Probation rule. Mr. Tellechea went on to explain that Dr. Elisabeth Tucker raised concerns about the lecture outlines being in template form rather than being individualized to the licensee required to give the lecture. Lectures are not currently included in this rule and may not need to be added, but was included for discussion.

Dr. Bearison made a motion to require that the community service be verified by the entity where the community service hours are being performed and craft a rule to that effect. The motion was seconded and carried unanimously.

Dr. Bearison made a motion to require lectures to include specifics about what warranted the discipline that requires the licensee to give a lecture. The motion was seconded and carried unanimously.

A motion was made and seconded to notice the standard terms of probation rule for rule development. The motion was seconded and carried unanimously.

**Action taken:** Approve notice for rule development.

### **Legislative Discussion:**

#### **Tab 3 - Bill Matrix (2010 Legislative Session)**

##### **SB 308 – Disorders/Ability to Operate a Motor Vehicle;**

This bill requires a physician to report to the local county health department certain information regarding patients diagnosed as having disorders characterized by lapses of consciousness. Requires said department to report such information to the HSMV. Requires that the HSMV keep the report confidential and use the reports only for determining a person's eligibility to operate a motor vehicle.

Dr. Lage expressed concerns about the language of the bill and supported continued opposition to the bill as written.

Action Taken: none

##### **HB 225 – Dispensing of Controlled Substances;**

This is a strike all amendment created an AHCA program that would bring into a multi-state electronic entity Florida pharmacies that dispense Schedule II-IV medications. It provides that pain clinics be owned only by physicians and pain clinic registration be denied or revoked if the owner of physician under contract with the clinic has had a DEA certificate or if the physician has been disciplined for impairment due to drug or alcohol.. Pain clinic registration shall be denied if the owner has a felony conviction for violation of the controlled substance statute, ch 893. Registration also denied if the medical director is not board certified in pain medicine. Creates disciplinary grounds for a physician practicing in an unregistered pain clinic that should have registered or for advertising the prescribing or dispensing of controlled substances. The strike all continued with the 72 hour limit of dispensing of Schedule II-IV

The Committee recognized Allen Grossman, Esq. who stated concerns about the language of the bill regarding denial of an application if the physician ever had a conviction under Chapter 893, F.S.

The Committee recognized Chris Nuland, Esq., representing the Florida Academy of Pain Medicine. Mr. Nuland echoed further concern with the language of the bill, but expressed support of the intent of bill.

After discussion, a motion was made, seconded, and passed unanimously to have the Chair of the Pain Clinic Standards of Practice Joint Committee to draft a letter to the bill's sponsor in support of the bill, but stating certain concerns with the bill's language.

**Action taken:** The Committee voted to have a letter drafted by the Chair of the Pain Clinic Standards of Practice Joint Committee stating the Committee's support of the bill, but including the Committee's concerns with the bill's language.

SB 251 – Clinical Perfusionists;

This bill specifies financial responsibility requirements for clinic perfusionists; requires supervising physician to be qualified in medical area in which clinical perfusionist performs; prescribes duties of clinical perfusionist; requires clinical perfusionist to convey that he or she authorizes clinical perfusionist to perform medical tasks & services within certain protocol, etc.

The Committee recognized Juhan Mixon, representing The Perfusionist Society. Mr. Mixon spoke in favor of the bill and asked that the Committee reconsider their neutral position and support the bill.

A motion was made, seconded and passed unanimously to remain neutral on the matter.

**Action Taken:** remain neutral

SB 646 – Pain-Management Clinics;

This bill prohibits a person from owning or operating a pain-management clinic unless he or she is a physician licensed in this state. Requires a physician's license to be clear and active to own or operate a pain-management clinic. Provides that pain-management clinic may not be owned by or employ a physician who has been disciplined by the Board of Medicine or the Board of Osteopathic Medicine for dependency on drugs or alcohol, etc.

**Action Taken:** Previously supported with removal of language regarding drug and alcohol impairment. No change.

Tab 4 – SB 804 – Pain-Management Clinics

Prohibits pain clinic to individuals convicted of a felony. Counsel noted the language should state "regardless of adjudication" and that reference to physicians should include MD or DO licensed pursuant to chapters 458 or 459. It creates a 2 year renewal for pain clinics and defines "affiliated person." Also creates additional requirements for registering a pain clinic. Board counsel noted the bill would benefit with language to further define certain term and department's authority. Provides a fingerprint requirement for certain owners and management persons.

After discussion, a motion was made, seconded, and passed unanimously to write a letter to the sponsor of the bill supporting the bill, but addressing concerns with language in the bill.

**Action Taken:** The Committee voted to write a letter to the sponsor of the bill giving their support, but expressing their concerns with certain language.

## **Tab 5 – SB 571 – Sale of Event Tickets**

**Action Taken:** none

## **Tab 6 - SB 573 – Physician Assistants**

This bill deletes requirements that physician assistants file evidence of certain clinical experience before prescribing or dispensing medications; requires applicants for licensure as physician assistants remit applications in specified format, submit fingerprints, and undergo statewide & national criminal history checks; requires DOH to allow electronic submission of fingerprints, etc.

The Committee recognized Mr. Mixon who explained that language regarding the fingerprints would be deleted.

A motion was made, seconded, and passed unanimously to table the matter until the revised language is complete.

**Action Taken:** the Committee voted to table the matter until the revised language is complete.

## **Tab 7 – SB 430 – Tanning Facilities/Use by Minors [SPSC]:**

This bill requires that the operator or proprietor of a tanning facility witness the signing of a written statement by the parent or legal guardian of a minor before the minor is allowed to use a tanning device. Revises the age at which a minor is allowed to use a tanning device, deletes provisions authorizing the use of a tanning device by certain minors if accompanied by a parent or legal guardian, etc.

A motion as made, seconded, and passed 5/2 to table the matter.

**Action Taken:** the Committee voted to table the matter.

## **Tab 8 - SB 330 - Optometrists**

This bill grants expansion of optometry practice to certain controlled substances to patients.

The Committee recognized Mr. Nuland, representing FMA. Mr. Nuland expressed opposition to the bill due to patient safety.

A motion was made, seconded, and carried unanimously to oppose the bill due to potential issues with patient safety.

**Action taken:** Opposed

## **Discussion Items:**

New Business: Electrolysis Association of Florida – Request to present recent law that appears to change supervision of electrologists using laser hair removal devices

The Committee recognized Mr. Larry Gonzalez, Esq. representing the Electrolysis Association of Florida. Mr. Gonzalez presented a list of concerns to the board regarding the increased

hardship to electrolysis that Chapter 458.348, F.S. gives by requiring that they perform all hair removal services with direct supervision.

He explained that recent law that changed chapter 458 supports a new interpretation of the type of supervision required of electrologists.

After presentation by the Electrolysis Association Executive Director and several licensed electrologists, a motion was made, seconded, and passed unanimously to add the matter to the April 2010 committee meeting agenda, allowing other interested parties to attend and be heard on the matter.

**Action Taken:** the Committee voted to add the matter to the April 2010 committee meeting agenda.

**Other New Business:** none

The meeting adjourned at 6:10 p.m.