

1 Meeting Report  
2 Department of Health  
3 Board of Medicine  
4 Rules/Legislative Committee Meeting  
5

6 Marriott Tampa Airport  
7 Tampa International Airport  
8 Tampa, FL 33607  
9 (813) 879-5151  
10

11 February 5, 2009

12 4:10 p.m. Roll Call  
13

14 **Members Present:**

15 Steven Rosenberg, M.D., Chair  
16 Donald Mullins, Consumer Member  
17 Jason Rosenberg, M.D.  
18 George Thomas, M.D.  
19 Michael Chizner, M.D.  
20

**Members Absent:**

None

21 **Staff Present:**

22 Larry G. McPherson, Jr., J.D., Exec. Dir.  
23 Ed Tellechea, Board Counsel  
24 Donna McNulty, Board Counsel  
25 Nancy Murphy, Paralegal  
26 Crystal Sanford, CPM  
27

**Others Present:**

28 **Rules Discussion:**  
29

30 **Tab 1 - Rules Report**

31 The report is provided for information only.  
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34 **Action taken:** none  
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36 **Tab 2 - Rule 64B8-8.0011, FAC – Standard Terms Applicable to Orders (re: investigators**  
37 **& revised language from October meeting) & Tab 3 - Rule 64B8-8.0012, FAC – Probation**  
38 **Variables (re: investigators & revised language from October meeting)**  
39

40 Mr. Tellechea presented draft language that would authorize Department Investigators to obtain  
41 medical records previously reviewed by a monitoring physician to ensure the compliance of the  
42 probationer. The proposed language would require the monitor to maintain a log of the medical  
43 records that he/she reviewed.  
44

45 The Committee discussed a number of issues related to this change and suggested that additional  
46 research be done before the Committee acts further on this proposed rule change.  
47

1 A motion was made, seconded and carried unanimously to recommend tabling this matter until  
2 further research can be conducted.

3  
4 **Action taken:** matter tabled to conduct additional research

5  
6 **Tab 4 - Rule 64B8-10.003, FAC – Costs for Reproducing Medical Records**

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8 The Committee had previously approved draft language that would allow physicians to charge  
9 \$1.00 per page for reproduction of medical records for anyone except the patient and a  
10 governmental body. This rule was sent for adoption and a number of public comments were  
11 received. The public comments were presented to the Committee for review.

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13 **Action taken:** none; rule will move forward

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15 **Legislative Discussion:**

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17 **Tab 5 - Bill Matrix**

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19 This matrix was provided for information only.

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21 **Action taken:** none

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23 **Tab 10 - HB 249**

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25 The Committee reviewed HB 249 which, if passed, would remove the requirement for a  
26 supervising physician to co-sign charts or medical records prepared by the physician assistant.

27  
28 Juhan Mixon, Florida Academy of Physician Assistants (FAPA), addressed the Council  
29 requesting their support for the bill.

30  
31 Chris Nuland, Esquire, representing the Florida Chapter of the American College of Physicians,  
32 addressed the Council. He stated his organization is opposed to the bill on the basis that the  
33 current law, especially for new PA's, provides effective supervision.

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35 Deborah Gerbert, PA-C, Chair of the Physician Assistant Council, addressed the Committee and  
36 advised that the Council had supported this bill in their meeting held earlier in the day.

37  
38 A motion was made and seconded to recommend opposing this bill as written.

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40 An amendment was offered to remain neutral in lieu of opposing the bill. This amendment was  
41 rejected.

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43 The motion passed with one (1) opposed.

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45 **Action taken:** Oppose

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47 **Tab 6 - SB 310**

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1 This bill is related to family planning, issuance of contraceptives and requirements for physicians  
2 in the event a patient has been raped.

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4 Chris Nuland, Esquire, representing the Florida Chapter of the American College of Physicians,  
5 addressed the Committee and stated that currently physicians are only required to notify the  
6 police if the physician suspects the patient has been raped.

7  
8 After discussion, a motion was made, seconded and carried unanimously to recommend  
9 remaining neutral on this bill.

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11 **Action taken:** Neutral

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13 **Tab 7 - HB 129**

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15 This bill is the House version of SB 310 above.

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17 **Action taken:** none; see previous tab

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19 **Tab 8 - HB 89**

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21 This bill requires physicians to refer a minor to an appropriate specialist for screening for autism  
22 under certain circumstances.

23  
24 After discussion, a motion was made, seconded and carried unanimously to recommend  
25 opposing this bill. The committee discussed how this is a standard of care determination and that  
26 the American Academy of Pediatrics already has set forth guidelines for referral of minors with  
27 suspected autism.

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29 **Action taken:** Oppose

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31 **Tab 9 - SB 326**

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33 This bill expands the scope of practice for optometrists to allow them to prescribe not only  
34 topical medications, but also oral medications and includes certain controlled substances.

35  
36 A motion was made, seconded and carried unanimously recommend opposing this bill on the  
37 basis of the current issues with deaths related to abuse of controlled substances.

38  
39 **Action taken:** oppose

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41 **Tab 12 - HB 387**

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43 This bill would increase the number of medical faculty certificates issued to institutions from 15  
44 to 30 certificates.

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46 After discussion, a motion was made, seconded and carried 3-2 to recommend supporting this  
47 bill.

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49 **Action taken:** Support

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**Tab 13 - HB 391**

This bill is related to funding of medical schools.

After a lengthy discussion, a motion was made, seconded and carried with one (1) opposed to recommend opposing this bill on the basis of the state’s current budget condition.

**Action taken:** Oppose

**Tab 14 - HB 491**

This bill is related to the expansion of the H. Lee Moffitt Cancer Center and Research Institute and allows for the issuance of an undetermined number of medical faculty certificates.

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

**Action taken:** Neutral

**Supplemental – SB 938**

This bill would require physicians to offer HIV testing as part of the patient’s annual examination.

A motion was made, seconded and carried unanimously to oppose this bill.

**Action taken:** Oppose

**Supplemental – SB 1130**

This bill would create a practice act to regulate tattooists. The Board currently has a rule that requires tattooists to be supervised by a physician, osteopathic physician or a dentist. The committee noted that this was a comprehensive approach to regulation of tattooists..

A motion was made, seconded and carried unanimously to recommend supporting this bill.

**Action taken:** Support

**Supplemental – SB 347**

Mr. Tellechea presented this bill and explained its impact on the Board’s rules. He explained the bill expands the authority of the Joint Administrative Procedures Commission to review non-rule policies. The bill also requires the Board to arbitrarily repeal 25% of the rules. Mr. Tellechea reminded the Committee that the public currently has the right to challenge any rule adopted by the Board and so safeguards are already in place.

A motion was made, seconded and carried unanimously to recommend strongly opposing this bill.

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**Action taken:** Oppose

**Discussion Items:**

**Tab 11 - s. 459.0055 General Licensure Requirements**

The Committee reviewed draft language from the Board of Osteopathic Medicine that would allow the Credentials Committee to deny an applicant who received a less than satisfactory evaluation from an internship, residency, or fellowship training programs. Mr. Tellechea had previously presented different language regarding this same issue.

Dr. Chizner advised that the Credentials Committee, in a meeting held earlier that same day, had unanimously approved the language presented by the Osteopathic Board.

Karen Ciphers, representing the Florida Medical Association (FMA), was asked for FMA's position. She stated FMA had no position currently, but the Board of Governor's would be meeting soon and would discuss it further.

A motion was made, seconded and carried unanimously to recommend adopting the language used by the Osteopathic Board which states:  
*Not have received less than a satisfactory evaluation from an internship, residency, or fellowship training programs, unless the Board determines that such act does not adversely affect the applicant's present ability and fitness to practice osteopathic medicine. Such evaluation shall be provided by the director of medical education from the medical training facility.*

A motion was made, seconded and carried unanimously to recommend adding this to our list of legislative proposals.

**Action taken:** approved the language used by the Board of Osteopathic Medicine; add to legislative proposals

The meeting adjourned at 5:50 p.m.