

**Meeting Report  
Board of Medicine  
Rules/Legislative Committee Meeting  
Embassy Suites  
1100 SE 17<sup>th</sup> St  
Ft. Lauderdale, FL 33316  
(954) 527-2700**

**August 9, 2007**

4:45 pm Roll Call

**Members Present:**

Onelia Lage, M.D., Chair  
Steven Rosenberg, M.D.  
Carmel Barrau, M.D.  
Michael Chizner, M.D.

**Members Absent:**

Gary Winchester, M.D.

**Staff Present:**

Larry McPherson, Jr., J.D., Executive Director  
Ed Tellechea, J.D., Board Counsel  
Nancy Murphy, Paralegal  
Crystal Sanford, CPM, Program Operations Administrator

**Others Present:**

Raymond Pomm, M.D., Director, Practitioners Recovery Network

**Tab 1 - Rules Report**

This report was for informational purposes only.

**Tab 2 - Chapter 64B8-36.003, FAC – Medicinal Drugs Which May be Ordered by Pharmacists**

Mr. Tellechea explained the Board of Medicine held a joint meeting with the Board of Pharmacy in 2004 and made some changes to the Pharmacy Rule 64B16-27.220, FAC, but the Board of Medicine's companion rule was not updated.

The Committee recommends authorizing Mr. Tellechea to notice the rule for development and to bring draft language for review at the next meeting.

**Tab 3 - Education of Dispensing Practitioners**

Mr. McPherson explained that this matter was brought to the attention of the Board at the July 2007 Retreat by Ephraim Livingston, J.D., Prosecution Services. He explained that inspectors have found, when performing inspection of physician offices who have

dispensing privileges, that dispensing physicians do not understand the laws and rules applicable to them.

Mr. Tellechea explained the Board does not have the authority to require training for dispensing physicians.

The Committee recommends adding language to the dispensing practitioner form that suggests the physician go to the web site to review the laws and rules affecting dispensing practitioners. The Committee also requested the definition on the form be updated.

#### **Tab 4 - CE Broker Discussion**

The Board, at the July Retreat, referred the issue of CE Broker to the Committee to discuss other alternatives for CME tracking.

Ms. Sanford shared some of her research regarding the American Medical Association (AMA) Physician Recognition Award (PRA) Certificate.

The Committee recommends adding information about CE Broker, the AMA PRA and any other alternatives to the web site for CE tracking.

#### **Tab 5 - Chapter 64B8-9.015, FAC – Qualifications of Physicians Who Evaluate and Treat Sex Offenders**

Mr. Tellechea explained that Chapter 2007-209, passed during the 2007 Legislative Session, defined the qualifications of physicians who evaluate and treat sex offenders. He advised the Committee to repeal the Board's rule since it is no longer necessary.

The Committee recommends repealing Rule 64B8-9.015, FAC.

#### **Tab 6 - Electrology Rule Challenge**

Mr. Tellechea explained the Electrolysis Council received a rule challenge from Jon Pellett, Esquire to a non-rule policy. He stated this rule challenge resulted from petitioner LaserDerm Medspa and Sherry O'Hara-Bennett. He explained the Council has granted Ms. O'Hara-Bennett authorization to provide laser training; however, the issue of the attorney's fees remains. He asked the Committee to grant him authority to negotiate the attorney's fees and indicated there may be a need to hold a conference call in September.

Mr. Tellechea reminded the Committee that a complete rule review of all the Electrology rules will be conducted in October.

The Committee recommends granting Mr. Tellechea authority to negotiate attorney fees with Mr. Pellett.

## **Tab 7 - 2008 Revised Legislative Proposals**

Mr. McPherson explained the Board, at the July Retreat, referred the legislative proposal regarding medical records to the Committee to discuss the language, “. . . or for failing to pursue an indicated course of treatment”. The proposal currently reads as follows:

### ***458.331 Grounds for disciplinary action; action by the board and department. -***

*(m) Failing to keep legible, as defined by ~~department~~ board rule in consultation with the ~~board~~ department, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient or for failing to pursue an apparently indicated course of treatment., including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.*

Several suggestions were made concerning the language including the following:

- Change the language to state “or for failing to pursue what should have been an indicated course of treatment”
- Change the language to state “or for failing to pursue an indicated course of treatment required by the standard of care”
- Change the language to state “or for failing to pursue a course of treatment required by the standard of care”
- Drop the language and add “or violating the standard of care”

The Committee recommends authorizing Mr. Tellechea to draft language for review at the next meeting.

The meeting was adjourned at 5:45 p.m.