

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

**Rosen Centre Hotel**  
**9840 International Drive**  
**Orlando, FL 32819**  
**(407) 996-9840**

**October 2, 2008**

4:00 p.m. Roll Call

**Members Present:**

Steven Rosenberg, M.D., Chair  
Laurie Davies, M.D.  
Onelia Lage, M.D.  
George Thomas, M.D.  
Michael Chizner, M.D.

**Members Absent:**

**Staff Present:**

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

**Others Present:**

American Court Reporting

**Rules Discussion:**

**Tab 1 - Rules Report**

This matter was submitted for information only.

**Action taken:** none

**Tab 2 - Rule 64B8-31.005, FAC – Anesthesiologist Assistant Protocols & Performance**

This matter was on the agenda to advise that the Florida Board of Osteopathic Medicine did not approve the proposed language that would allow an anesthesiologist to supervise four (4) anesthesiologist assistants (AA's).

Mr. Tellechea explained that by increasing the ratio of anesthesiologist to anesthesiologist assistants, the physician could actually supervise 8 extenders: 4 CRNA's and 4 AA's.

**Action taken:** none

**Tab 3 – Rule 64B8-1.007, FAC – Forms (re: application for licensure)**

The application for licensure as a physician in Florida was revised and staff was requesting the Committee approve the revised application as it pertains to the forms rule.

A motion was made, seconded and carried unanimously to recommend approving the draft language.

**Action taken:** language approved

#### **Tab 4 - Rule 64B8-4.009, FAC – Applications**

In addition to revising the forms rule as it is related to the revised application, this rule must also be revised to incorporate the form.

A motion was made, seconded and carried unanimously to recommend approving the draft language.

**Action taken:** language approved

#### **Tab 5 - Rule 64B8-2.001, FAC – Definitions**

This matter was on the agenda to remove language related to the FLEX examination and the number of attempts. The draft language did not define “weighted average” and the members felt it was necessary to include the formula used to determine the “weighted average”.

A motion was made, seconded and carried unanimously to recommend approving the draft language with the amendment that the formula be included in the language.

Mr. Tellechea stated he would bring the revised draft language to the Committee in December.

**Action taken:** language approved with the inclusion of the formula for the weighted average.

#### **Tab 6 - Rule 64B8-8.0011, FAC – Standard Terms Applicable to Orders**

This matter was brought before the Committee for a determination of whether language should be added to the standard terms that would allow a Department Investigator to review medical records previously reviewed by a monitoring physician to ensure compliance.

The Committee felt this would be an added burden to the physician since an approved monitor is already reviewing those records.

After discussion, a motion was made, seconded and carried unanimously to recommend draft language that would state Board or a committee of the Board could authorize a Department investigator to review medical records if a problem arose.

A motion was made, seconded and carried unanimously to recommend authorizing Mr. Tellechea to notice this rule for development to include language that allows the Board to authorize a Department investigator to make a site visit if warranted.

**Action taken:** notice rule for development and bring draft language to the next meeting

**Tab 7 - Rule 64B8-8.0012, FAC – Probation Variables**

Mr. Tellechea explained this rule should be revised the same way rule 64B8-8.0011, FAC in tab 6.

A motion was made, seconded and carried unanimously to recommend authorizing Mr. Tellechea to notice this rule for development as recommended in tab 6.

**Action taken:** notice rule for development and bring draft language to the next meeting

**Legislative Discussion:**

**Tab 8 - Fine caps**

The Board asked Mr. Tellechea to draft legislative language that would increase fine caps over \$10,000 per count.

Mr. Tellechea explained the draft language is in section 456, Florida Statutes, but that he was able to draft language that pertains only to the Board of Medicine.

The Committee members expressed concern regarding the portion of the draft language that states “must impose a fine of \$25,000 per count or offense if the violation is for fraud or making a false or fraudulent representation. The concern was that members would be required to impose the \$25,000 in those types of cases rather than having the authority to adjust the amount of the fine based on aggravating or mitigating circumstances.

Mr. Tellechea explained that language was in the statute already and he followed the same format.

A motion was made, seconded and carried unanimously to recommend approving the following draft language: The Board of Medicine however may impose a fine not to exceed \$25,000 for each court or separate offense.

**Action taken:** language approved as amended

**Tab 9 - Genetic Counseling Licensure**

Daniel Riconda, MS, CGC and George Stuart, former Florida Senator and Secretary for the Department of Professional Regulation appeared before the Board to ask for the Board’s direction or comment on in draft legislative language that would require genetic counselors to be licensed in Florida.

Dr. Lage made a general comment regarding genetic counseling and Mr. Tellechea pointed out some problems with the language including the fact that the language does not set forth what entity would be responsible for taking disciplinary action if necessary.

The Committee advised Mr. Riconda that the Board does not normally comment on proposals that are not yet in bill format. They explained that once Mr. Riconda's bill is filed, the Board will either support, remain neutral or oppose the bill.

**Action taken:** none

### **Tab 10 - Proposed legislative language re: letters of guidance**

At the last meeting, the Board asked Mr. Tellechea to draft language to allow the Board to issue letters of guidance after probable cause has been found.

The Committee reviewed the following language:

*456.072(8) - Where a case is presented before the board, or the department when there is not board, pursuant to Section 120.57(2) or 120.57(4), and the board or the department chooses to dismiss the matter, it may issue along with the order of dismissal a letter of advise setting forth the board's or the department's concerns. A letter of advice shall not constitute disciplinary action.*

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

**Action taken:** draft language approved

### **Tab 11 - Rule 64B8-52.004, FAC - Requirements for Approval of Training Courses for Laser and Light-Based Hair Removal or Reduction**

Mr. Tellechea explained this rule which would reduce periods of training requirements from two years to one year, was voted on at the last meeting, however, the Committee had not yet made a determination of whether a statement of estimated regulatory costs (SERC) was necessary.

After discussion, a motion was made, seconded and carried unanimously to recommend drafting a SERC because the rule may have a minimal effect on small businesses.

**Action taken:** SERC required

### **New Business**

Dr. Rosenberg advised the Committee that a request for a rule workshop was received from the Florida Justice Association and that the workshop was tentatively scheduled before the Committee in December.

Dr. Davies expressed concern about holding a workshop in conjunction with the full Board Meeting and the other committee meetings normally conducted at the same time.

Mr. McPherson explained that a quorum of the Committee was not required for a rule workshop.

The Committee asked if a workshop was necessary since the Committee had already held numerous workshops.

Mr. Tellechea stated they were not obligated to hold another workshop.

A motion was made, seconded and carried unanimously to recommend denying the request for a rule workshop.

**Action taken:** request for workshop denied

The meeting adjourned at 5:08 p.m.