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**Draft Meeting Report
Florida Board of Medicine
Rule Hearing on Rule 64B8-9.0131, FAC**

**Renaissance Orlando Hotel
5445 Forbes Place
Orlando, FL 32812**

October 2, 2010

Roll Call 8:00 a.m.

Members Present:

Onelia Lage, M.D., Chair
Michael Chizner, M.D., Vice Chair
H. Frank Farmer, Jr., M.D.
Trina Espinola, M.D.
Donald Mullins, Consumer Member
Robert Nuss, M.D.
Fred Bearison, M.D.
Jason Rosenberg, M.D.
George Thomas, M.D.
Steve Rosenberg, M.D.
Brigitte Goersch, Consumer Member
Elisabeth Tucker, M.D.
Bradley Levine, Consumer Member

Members Absent:

Tully Patrowicz, M.D.
Gary Winchester, M.D.

Staff Present:

Larry McPherson, Executive Director
Ed Tellechea, Board Counsel
Donna McNulty, Board Counsel
Nancy Murphy, Paralegal
Crystal Sanford, Program Operations Adm.
Chandra Prine, Program Operations Adm.
Whitney Bowen, Board Staff
Eulinda Smith, Public Information Officer

Others Present:

American Court Reporting

The Board of Medicine received two (2) requests for hearing on Rule 64B8-9.0131, FAC.

Paul Sloan, First Choice Pain Care Clinic

Accompanying Mr. Sloan were the following physicians that practice in his clinic:

Martin Hale, M.D.
Emiliya S. Hill, M.D.
Joel R. Sukonik, M.D.

1 Mr. Sloan expressed concern regarding access to care and recommended the Board add
2 the following specialties to the rule to meet the qualification standards to practice in a
3 pain management clinic:

4 Neurosurgery

5 Orthopaedics

6 Palliative and Hospice care

7 Family internal medicine

8

9 Deborah Tracy, M.D., President, Florida Society of Interventional Pain Physicians

10 Dr. Tracy expressed her concern regarding the annual quality assessment required for
11 pain clinics. She stated this assessment could cost between \$2,500 and \$6,000 and this
12 was in addition to the mandated annual inspection by the Department of Health which
13 costs \$1,500. She also pointed to the risk management assessment required to qualify to
14 practice in a pain-management clinic. She said local moratoriums have been imposed
15 and require additional fees up to \$3,000. She also stated there have been cuts in
16 Medicaid. She suggested this portion of the rule be deleted and suggested the
17 Department require the assessment only if the clinic fails the Department inspection.

18

19 Mr. Tellechea explained the two (2) items are separate:

20 1. Quality assessment required annually of all pain-management clinics

21 2. Quality assessment required to demonstrate a physician's qualifications to
22 practice in a pain-management clinic

23 He stated the quality assessment completed to demonstrate a physician's qualifications
24 can also be used as the annual quality assessment.

25

26 Dr. Tracy pointed out what seemed to be a contradiction between language on page 3 and
27 page 5 of the rule. After discussion, it was determined to be two (2) separate situations
28 and so no contradiction in the language.

29

30 Holly Miller, Esquire, Florida Medical Association

31 Ms. Miller provided FMA's recommendation to delete the annual quality assurance
32 requirement but to maintain it for a physician to demonstrate his qualifications. She said
33 the annual assessment is overly burdensome, costly and duplicative.

34

35 Chris Nuland, Esquire, Florida Academy of Pain Medicine

36 Mr. Nuland supported Dr. Tracy's comments regarding the annual quality assessment. He
37 also agreed with Mr. Sloan's comments regarding access to care. He urged consistency
38 with the Board of Osteopathic Medicine's rule and recommended adding the specialties
39 included in the Osteopathic rule.

40

41 Jesse Lipnick, M.D., Florida Society of Interventional Pain Physicians, Southeastern
42 Integrated Medicine

43 Dr. Lipnick also supported comments made by Dr. Tracy concerning the quality
44 assessment. His second concern was the requirement to perform the physical
45 examination on the patient and the inability of physician extenders to assist in this

1 examination. He stressed these requirements have resulted in his having to close two (2)
2 clinics because he does not have enough physicians to treat the patients.

3
4 Mr. Tellechea explained that it was the Department's view that PA's cannot perform the
5 physician examination because the law says the physician will perform the examination.

6
7 Sanford Silverman, M.D., Florida Society of Interventional Pain Physicians

8 Dr. Silverman also supported the removal of the requirement for annual quality
9 assessments. He also pointed to page 10 indicating the language was contradictory.

10
11 Mr. Tellechea explained the items were two (2) separate issues and not contradictory.

12
13 Dr. Silverman also supported the addition of the specialties listed in the Osteopathic rule.

14
15 Ron Meyer, Esquire, Florida Academy of Physician Assistants

16 Mr. Meyer disagreed with the Department's stand on the PA issue. He said statute allows
17 physicians to delegate to PA's those duties in which the PA is trained. He said PA's are
18 being terminated all over the state as a result of the Department's stand on this issue.

19
20 Allen Grossman, Esquire

21 Mr. Grossman stated he believed the Board did have the authority to clarify the PA issue.
22 Mr. Grossman also asked the Board to define pain-management as it is related to the
23 advertising requirement of the law. He explained currently the law requires registration if
24 a clinic advertises any kind of pain treatment. Mr. Grossman also advised the Board that
25 insurance claims for urine tests and examinations by the physician have been denied. Mr.
26 Grossman also stressed the importance that the Board's rule be consistent with the
27 Osteopathic rule. He asked the Board to remember this law was aimed at pill mills and to
28 consider the requirements of the rule very carefully so it does not restrict treatment of
29 honest patients by honest physicians.

30
31 Mr. Tellechea advised he did not believe the Board had the authority to define pain-
32 management. He said the law clearly delineates the rulemaking authority to the Boards
33 and to the Department.

34
35 Mr. Grossman was asked to obtain data regarding the insurance denials.

36
37 Carissa Stone, M.D., Gulf to Bay Pain Clinic, Integrative Pain Medicine

38 Dr. Stone stated she had also experienced the solvency issues mentioned by an earlier
39 presenter. She stressed it was costly to meet the state requirements which are the most
40 strict of all other states.

41
42 James Shea, M.D.

43 Dr. Shea expressed concern about opening the rule to additional specialty areas. He said,
44 like any specialist, patients that come to a pain-management clinic receive extra expertise
45 in pain. On the other hand, he explained he was also concerned about opening the rule to
46 PA's and leaving out the additional specialty areas. He also stressed the annual quality

1 assessment may be alright for large group practices, but an extreme burden on solo
2 practices.

3
4 Michael Creamer, D.O., Florida Society of Physical Medicine and Rehabilitation
5 Dr. Creamer reiterated the concerns regarding the costs associated with the annual quality
6 assessment and the annual Department inspection.

7
8 Dr. Tracy readdressed the Board and stated that Medicare/Medicaid had reconsidered the
9 insurance claim denials and will now pay for the urine tests and physical examinations.
10 She said Blue Cross, Aetna and others will not pay for those services.

11
12 The Board closed the hearing and advised they would take up this discussion again
13 following the morning's disciplinary hearings.

14
15 The meeting adjourned at 9:46 p.m.