



**Florida Board of Medicine
Rules/Legislative Committee Meeting**

**Rosen Shingle Creek
9939 Universal Boulevard
Orlando, Florida 32819
1(866)996-6338**

February 1, 2018

Meeting Report

Roll call 4:03 pm

Members Present:

Stephanie Haridopolos, M.D., Chair
James W. Orr, Jr., M.D., Vice Chair
Andre Perez, Consumer Member
Steven Rosenberg, M.D.
Sarvam TerKonda, M.D.
Seela Ramesh, M.D.

Members Absent:

Nicholas Romanello, Consumer Member

Staff Present:

Claudia Kemp, Executive Director, Board of Medicine
Edward Tellechea, Board Counsel
Donna McNulty, Board Counsel
Nancy Murphy, Certified Paralegal
Crystal Sanford, Program Operations Administrator
Wendy Alls, Program Operations Administrator

Others Present:

American Court Reporting
Suzette Bragg
425 Old Magnolia Road
Crawfordville, FL 32327
(850) 421-0058

Dr. Haridopolos recognized and welcomed the newest member of the Board and Committee, Mr. Perez.

Dr. Haridopolos asked for a motion to approve the last meetings minutes.

A motion was made, seconded and carried unanimously to approve the minutes.

Action taken: minutes approved

Request for Triennial Reauthorization:

American Association of Physician Specialists/American Boards of Physician Specialties (ABPS) and its member Certification Board in Dermatology (Rule 64B8-11.001(9), FAC – Advertising 1 RESCHEDULED FOR APRIL

Allen Grossman, Esquire, addressed the Committee regarding the withdrawal of his request. He said it was needed until April and apologized for any inconvenience.

Mr. Tellechea asked if their competitor would be submitted a request.

Dr. Rosenberg asked how many physicians had the dermatology certification.

Mr. Grossman said he was not ready to get into the discussion of the request but the organizations meet the Board's requirements. He said there are not as many dermatologists as there are with the American Board of Medical Specialties (ABMS) Board of Dermatology.

Rules Discussion:

Levels of Supervision2

- Rule 64B8-8.0011, FAC – Standard Terms Applicable to Orders
- Rule 64B8-8.0012, FAC – Probation Variables and Practice Restrictions
- Rule 64B8-8.0021, FAC – Provisions Governing All Supervisors or Monitoring Physicians
- Rule 64B8-2.001, FAC – Definitions
- Rule 64B8-4.025, FAC – Licensure Under Supervision

Mr. Tellechea explained at a previous meeting, the Board had requested more levels of supervision besides direct and indirect. He said he looked at all the rules where supervision is mentioned and identified the ones above. He added “immediate supervision” and a definition of immediate supervision to each of the rules.

Rules 64B8-8.0011, FAC

Dr. TerKonda pointed out where the rule reads supervising physician but in the last section, it reads monitoring physician.

Mr. Tellechea said that was an error and it should say supervising physician. He explained over the years the terms have been used interchangeably.

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

Rule 64B8-8.0012, FAC

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

Rule 64B8-8.0021, FAC

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

Rule 64B8-2.001, FAC

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

Rule 64B8-4.025, FAC

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

The Committee was asked the following questions,

1. Will the proposed rule amendments have an adverse impact on small business?
2. Will the proposed rule amendments be likely to directly or indirectly increase regulatory costs to any entity, including the government) in excess of \$200,000 in the aggregate in Florida within one year after implementation of the rule amendments?

A motion was made, seconded and carried unanimously that the rule amendments do not have an impact.

The Committee was then asked if these rule amendments would create an offense that would constitute a minor violation under the rule.

A motion was made, seconded and carried unanimously to find the rule amendments would not create an offense that would constitute a minor violation under the rule.

Mr. Tellechea said if he discovers another rule with supervision language, he will bring it back before the Committee. He asked Allison Dudley with the Prosecution Services Unit if the Department wanted to work with him on language for the settlement agreements.

Ms. Dudley said she would draft language and present it at the next meeting.

Ms. McNulty asked Ms. Dudley to go through all their templates to ensure the language reads supervising physician and not monitoring physician.

Action taken: all draft rules approved; no Statement of Estimated Regulatory Costs (SERC)

Rules Report3

This report was for information only unless members had questions.

No action necessary.

Discussion:

Area of Critical Need Process5

Dr. Rosenberg said he would like to know how the areas of critical need (ACN) are determined, the requirements for the physician and the services they should or should not be performing. He said cases have come before the Board where the physician was practicing in an area of critical need by performing Botox injections and fillers. He pointed to an email from Debbie Reich with the Department of Health where she wrote “The percentage of population at or below 200% poverty and the number of physicians in the area to qualify.”

Dr. Haridopolos said it should be 30% or more.

Dr. Rosenberg said the ACN physicians are not required to be Medicaid providers. He said these are physician who are not qualified for a full medical license and should be providing medically necessary care. He said he would like for Ms. Reich to come to the next meeting with information about the area of critical need process for approval, including the qualifications of the ACN physician. He said the Legislature needs to look at the law to ensure it reads “primary care services”.

Dr. Haridopolos said the Department of Health and Human Services website changes. She said the federal people establish the areas and that is passed down to the State Surgeon General. She said the request for the Committee is to ask the State Surgeon General to conduct a research study about the process and report back to the Board.

Dr. Rosenberg asked for that presentation at the next meeting. He said he also wants to know how the geographical areas are determined to need medically necessary services. He wants to know the definition of medically necessary services.

Ms. Kemp said she would draft a letter to the State Surgeon General including the items the Committee has requested and request that Ms. Reich attend the next meeting to explain the process and the research.

Dr. Haridopolos said she would bring this matter up at the full board meeting during her report.

A motion was made, seconded and carried unanimously to write a letter to the State Surgeon General requesting information on how the critical areas are determined, delineation of responsibilities of the physician and the services and the Committee would like an in-person presentation on the research.

Action taken: write a letter to the State Surgeon General requesting information on how the critical areas are determined, delineation of responsibilities of the physician and the services and the Committee would like an in-person presentation on the research; Chair will bring this up at full board meeting

Mr. Perez said the Department of Economic Opportunity has the information on areas of critical need and suggested looking at what is available.

Dr. Rosenberg said he would like to look at the federal definition of area of critical need.

Ms. McNulty read Section 458.315 which reads the State Surgeon General shall determine the areas of critical need.

Dr. Rosenberg said the Committee needed to look at the federal definition. He said the services need to be for true medically necessary areas.

Dr. Haridopolos said there is a lot of confusion and to wait until we get the information.

Dr. Rosenberg said he liked Mr. Perez's suggestion and said to look at any discrepancy in the reports.

Ms. Kemp said she would draft the letter from the Board and share it with Dr. Rosenberg and Dr. Haridopolos before sending it to the State Surgeon General.

Standardized Application.....4

Ms. Kemp requested the Committee table this matter to another meeting. She said there is a workgroup including Dr. Rosenberg, Dr. Haridopolos, and two members of the Osteopathic Board that will be looking at the health history questions in the application. She said Dr. Rosenberg delegated review of the applications to Dr. Orr at the last meeting.

Dr. Haridopolos asked Dr. Orr to work with Ms. Kemp on the applications.

Dr. Orr said he would do that.

Ms. Kemp reminded the members there is a lot of interest and it effects all Boards. She said the meeting would be a conference call.

Mr. Tellechea asked if the Board Counsels would be there because there are some ADA issues.

Mr. Grossman addressed the Committee and said he was glad the Boards were looking at the health history questions. He said the instructions would need to be updated as well.

Ms. Kemp said instructions would be part of the review.

Other Business:

None

New Business:

None

The meeting adjourned at 4:32 pm.