



**Florida Boards of Medicine and Osteopathic
Medicine
Joint Surgical Care/Quality Assurance
Committee Meeting**

**Hilton Orlando – Altamonte Springs
350 Northlake Boulevard
Altamonte Springs, Florida 32701
(407) 830-1985**

December 5, 2019

Meeting Minutes

Roll call 3:25 pm

Members Present:

Jorge Lopez, M.D., Chair
Hector Vila, M.D., Vice Chair
Sarvam TerKonda, M.D.
Robert London, M.D.
Kevin Cairns, M.D.
Sandra Schwemmer, D.O.
Joel Rose, D.O.
Anna Hayden, D.O.

Members Absent:

Brigitte Goersch, Consumer Member

Staff Present:

Claudia Kemp, J.D., Executive Director
Donna McNulty, Board Counsel
Nancy Murphy, Certified Paralegal
Crystal Sanford, Program Operations Administrator Orlando Florida 32806
Rebecca Hewett, Regulatory Specialist III (407) 896-1813
Shaila Washington, Regulatory Supervisor

Others Present:

Cindy Green, Court Reporter
Magnolia Court Reporting
3213 Hargill Drive

Correspondence:

Correspondence from the Office of Fiscal Accountability and Regulatory Reform ...1

Ms. McNulty explained the Governor sent a letter to all agencies. Governor DeSantis was requesting agencies follow the Office of Fiscal Accountability and Regulatory Reform’s (OFARR) rulemaking procedures. Ms. McNulty said the Board has the option of imposing a five-year sunset provision when rulemaking.

A motion was made, seconded and carried unanimously to impose the sunset provision on a rule by rule basis.

Action taken: impose the sunset provision on a rule by rule basis

Correspondence from George Arcos, M.D.2

The members briefly discussed Dr. Arcos’s email. He was requesting all pain-management clinics be excluded from having to register as an office surgery facility.

Chris Nuland, Esquire, representing the Florida Society of Anesthesiology, said they would not recommend any rule change.

The members accepted the correspondence for the record.

No action taken.

General Business of the Committee including, but not limited to:
Rule 64B8-9.009, FAC – Standards for Office Surgery and Rule 64B15-14.007, F.A.C. – Standards for Office Surgery3

- Definition of Office Surgery
- Mobile Anesthesia Cart

A motion was made, seconded, and carried unanimously to approve the proposed language regarding fat grafting which removes the word “superficial”. The proposed language is:

Standard of Care for Gluteal Fat Grafting: When performing gluteal fat grafting procedures, fat may only be injected into the subcutaneous space and must never cross the gluteal fascia. Intramuscular or subintramuscular fat injections are prohibited.

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

The members were asked the following questions.

Will the proposed rule amendments have an adverse impact on small business? Will the proposed rule amendments be likely to directly or indirectly increase regulatory costs to any entity (including 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 to find that a statement of estimated regulatory costs (SERC) is not needed.

Will this rule amendment create an offense that would constitute a minor violation under the rule?

A motion was made, seconded and carried unanimously to find this rule amendment will not create an offense that would constitute minor violation.

Does the Board/Committee want to impose the sunset provision for this rule or rule amendment?

A motion was made, seconded, and carried unanimously to decline imposing the sunset provision for this rule amendment.

Action taken: proposed language approved, no SERC needed, not a minor violation and declined to impose sunset provision

Office Surgery Definition

Ms. McNulty explained the Committee did not have proposed language for office surgery at this meeting. She explained various reasons why the definition for office surgery should not be changed at this time, including the new law and the Agency for Health Care Administration’s (AHCA) definition of an ambulatory surgery center. She said the centers are required to be registered either by AHCA or by the Department of Health.

Chris Nuland, Esquire, asked when the notice of rulemaking would go into effect for the Department’s application for registration under the new law. He said if the application is not ready will there be repercussions.

Ms. Kemp said she would be following up next week to get a policy decision from the Department regarding repercussions.

Erik Fresen address the Committee regarding the lack of specificity regarding the designated physician requirements. He said the department has not provided any guidance and he needed clarification of whether a physician owned office can self-designate for the facility. He said it is a burden for non-physician owned offices because they will have to hire someone to be designated.

Ms. McNulty read the portion of the law are related to the designated physician.

Mobile Anesthesia Carts

The Committee was provided a copy of an email received from Bryan Schnabel, Owner/CEO of Environ Anesthesia who has a mobile anesthesia company that is accredited by The Joint Commission and offered to have the Department inspect his carts.

Ms. McNulty said she needed a member to work with her to bring language regarding the mobile anesthesia carts to the next meeting.

Dr. Vila asked where the proposed language was concerning discharge orders.

Ms. McNulty explained that the Committee at the last meeting decided to not change the current language related to discharge orders.

No action taken.

Rule 64B8-9.0091, F.A.C – Requirement for Physician Office Registration; Inspection or Accreditation and Rule 64B15-14.0051, F.A.C. – Standards for Physician Office Registration; Inspection or Accreditation4

Dr. Villa expressed concern that he did not have the old rule incorporated in with the new proposed language.

Ms. McNulty explained it was more confusing to do it that way because the rule needed to be substantially been rewritten. She explained that she talked to the Departments, looked at the application, looked at the new law and the old rule when preparing this draft.

Dr. Hayden requested the “he’s” and “she’s” be removed from the rule. She also found the wording regarding submission of an ACLS or BLS card from the anesthesiologist or the assistant to the anesthesiologist confusing and offered language to clean it up.

Mr. Nuland address the Committee and said SB 732 substantially changed the registration requirements. He said Ms. McNulty looked at the statute and rewrote the rule and did a good job.

Dr. Hayden asked for clarification regarding the board certification organizations included in the rule because they did not mention any of the Osteopathic board certification organizations.

Ms. McNulty explained she was looking at the medical doctor version of the rule and that the osteopathic language incorporated the approved Osteopathic certifying boards.

Mr. Nuland requested clarification whether the new draft rule did not change that no action will be taken regarding corrective action plans unless there is an immediate danger to the public.

Ms. McNulty confirmed.

Dr. Schwemmer said it was a little confusing the way the rule was presented but with Ms. McNulty’s explanation she was more comfortable. She also said that the current and new rule were in the agenda materials.

Dr. Hayden agreed with Dr. Schwemmer.

Dr. Cairns said he read the proposed language and talk to Board Council and he thought it was well written.

A motion was made, seconded and carried unanimously to change the rule language to require the anesthesiologist submit to the board a current copy of their ACLS or PALS (if appropriate), card and the assistants to the anesthesiologist must submit to the Board a current copy of their BLS card.

Allen Grossman, Esquire, reminded the Committee the same language was in the rule related to the surgeon. He has some concern regarding the sentence that read “In order to register an office for office surgery, the physician must comply with the Departments Rule 64B-4.003, F.A.C. and provide documentation to support compliance with Rule 64B8-9.009, F.A.C., and this rule.” He asked who the physician was in this sentence.

Dr. Vila said surgeons are required to register and all physicians must comply with the rule. He said the language could be changed to say in order to register at an office if the Committee preferred.

Dr. Schwemmer suggested adding language to clarify.

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

Dr. Schwemmer told Ms. McNulty she did a good job on the rule.

The Committee were asked the following questions:

Will the proposed rule amendments have an adverse impact on small business? Will the proposed rule amendments be likely to directly or indirectly increase regulatory costs to any entity (including 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 to find no SERC is required.

Will this rule amendment create an offense that would constitute a minor violation under the rule?

A motion was made, seconded, and carried unanimously to find this will not constitute a minor violation.

Does the Board/Committee want to impose the sunset provision for this rule or rule amendment?

A motion was made, seconded and carried unanimously to decline imposing a sunset provision.

Action taken: draft language approved, no SERC, no minor violation, no sunset provision

A motion was made, seconded and carried unanimously to approve the meeting minutes from the meeting held October 2, 2019.

Action taken: minutes approved

Old Business:

None.

New Business:

None.

The meeting adjourned at 5:10 p.m.