



Florida Board of Medicine
Rules/Legislative Committee Meeting

DoubleTree by Hilton
5780 Major Boulevard
Orlando, Florida 32819
(407) 351-1000

February 7, 2019

MINUTES

Roll call 2:32 p.m.

Members Present:

Seela Ramesh, M.D., Vice Chair
Andre Perez, Consumer Member
Steven Rosenberg, M.D.
Jorge Lopez, M.D.
Steven Falcone, M.D.

Members Absent:

Sarvam TerKonda, M.D., Chair
Nicholas Romanello, Consumer Member
James W. Orr, Jr. M.D.

Staff Present:

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

Others Present:

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

Approval of December 2018 Meeting Minutes 1

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

Action taken: minutes approved

Rules:

Rules Report – FYI 2

Ms. Murphy provided this report for information.

No action necessary.

Rule 64B8-13.005, FAC – Continuing Education for Biennial Renewal 3

Proposed language for this rule was presented to the members. The proposal includes adding the University of Florida to the list of providers for the physician’s required 2-hour controlled substance course.

Mr. Tellechea said if any providers were approved today, he would add them to the draft language.

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 the proposed rule amendment would not cause an adverse impact or increase regulatory costs.

The members were asked one more question: 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 the proposed rule amendment would not constitute a minor violation.

Action taken: language approved; no statement of estimated regulated costs (SERC) needed

Approval of Providers to Offer the 2-Hour Controlled Substance Prescribing Course:

Rule 64B8-13.008, FAC – Requirement for Continuing Education Course on Prescribing Controlled Substances

NetCE..... 4

Representatives from Net CE appeared before the Committee in support of their request to be approved as a provider of the required 2-hour course including Mia McKown and John Kern.

Mr. Tellechea said from this point further new providers will be added to this rule and not Rule 64B8-13.008, F.A.C.

Mr. Tellechea explained NetCE has filed a Petition on Non-Rule Policy based on the Board's use of the definition of "association".

Dr. Lopez asked about the Legislature's intent for requiring the provider be a statewide professional association of physicians.

Mr. Tellechea explained Legislative intent is usually looked at when the language is vague. He said their choices were to ask the Legislature about the intent, go into rulemaking to define association or allow the petition on non-rule policy to go to the Division of Administrative Hearings.

Mr. Perez said the Board is going to end up defining association in rule.

Dr. Rosenberg stated this was an unusual situation because most CME does not require the course be offered by a statewide association.

Mia McKown, Esquire, updated the Committee about their course and their members. She said they filed the petition but would prefer to settle the issue with the Board. She said they have 684 members in their association. She said they would withdraw their petition if the Board approves them retroactive to their original application date.

Joseph McGurrin, InforMed, addressed the Committee with his concerns about NetCE.

Ms. McGown provided the name of the statewide association which is different than NetCE.

A motion was made, seconded and carried unanimously to reconsider the previous decision to deny.

A motion was made, seconded and carried with two opposed to approve NetCE as a provider.

A motion was made, seconded and carried unanimously to make the approval of NetCE

retroactive to their original application date.

Action taken: approved as a provider retroactive to their original application date

Mayo Clinic 5

No representatives from Net CE appeared before the Committee in support of their request to be approved as a provider of the required 2-hour course.

Mr Tellechea asked if a continuance request was requested for this meeting.

Ms. Sanford said no. The continuance request included in the materials was from a previous meeting.

A motion was made, seconded and carried unanimously to table this request.

Mr. Tellechea asked Ms. Sanford to advise May Clinic a representative should be present at the next meeting to answer questions from the members. He also asked her to advise them their materials are woefully inadequate.

Action taken: tabled; contact Mayo Clinic

The Doctor's Company 6

Jon Pellett, Esquire appeared on behalf of The Doctor's Company to support the request to be approved as a provider of the required 2-hour controlled substance course. Also present was Robin Wessels and Christian Groux.

Mr. Pellet explained the members had issues with their course content at the last meeting so additional information was provided this time including the Power Point presentation. He explained the request to be a provider comes from the Risk Management Program at The Doctor's Company. He advised the course was available to members and non-members free of charge.

Mr. Kern added there are 14,000 members and stated the members own the company.

A motion was made and seconded to approve The Doctor's Company as a provider.

Mr. McGurrin addressed the Committee about his concerns with this entity including there is a difference between policy holders and association members.

Dr. Lopez asked if the 14,000 members were physicians in Florida and that was confirmed.

Dr. Rosenberg said he is a member and asked Mr. Tellechea if he needed to recuse himself.

Mr. Tellechea said he only needed to recuse himself if he could not be objective in voting.

Dr. Rosenberg said he could be unbiased.

The motion carried unanimously.

Mr. Tellechea asked the members to go back to tab three and asked the members if they wanted to go ahead and add the three providers approved earlier in the meeting.

A motion was made, seconded and carried unanimously to add NetCE and The Doctor's Company to 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 the proposed rule amendment would not cause an adverse impact or increase regulatory costs.

The members were asked one more question: 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 the proposed rule amendment would not constitute a minor violation.

Action taken: authorized to add NetCE and The Doctor's Company to the proposed language for Rule 64B8-13.005, F.A.C.

Electrology Rules: 7

Rachelle Munson, counsel to the Electrology Council, appeared before the Committee to discuss changes to the rules.

Rule 64B8-51.002 – Licensure by Examination

Ms. Munson explained the proposed changes to the rule clarifies electrologists must take an examination that includes epilator and laser and if someone trained only in epilator now wants to use lasers, must take the 30-hour course.

Dr. Falcone asked if there was only one examination.

Ms. Munson said the language was put in the rule in case examination providers in the future want to provide the examination. She confirmed there was only one exam.

Mr. Tellechea explained an applicant can take an examination from a different provider then ask the Council to find that examination to be equivalent of the current examination.

A motion was made, seconded and carried unanimously to approve the rule 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 the proposed rule amendment would not cause an adverse impact or increase regulatory costs.

The members were asked one more question: 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 the proposed rule amendment would not constitute a minor violation.

Action taken: language approved, no SERC

Rule 64B8-51.006, FAC – Rule Governing Licensure and Inspection of Electrology Facilities

Ms. Munson explained this rule was amended to clarify electrologists that work for physicians in the physician's office do not have to register as an electrology facility.

A motion was made, seconded and carried unanimously to approve the rule 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 the proposed rule amendment would not cause an adverse impact or increase regulatory costs.

The members were asked one more question: 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 the proposed rule amendment would not constitute a minor violation.

Action taken: language approved, no SERC

Rule 64B8-51.001, FAC – Manner of Application

Ms. Munson explained this rule was amended to update the forms and to include the new health history questions.

Mr. Tellechea explained the Board did not approve the health history questions at their last meeting. He recommended approving everything except for the addition of the health history questions until the Board has had time to review the information they requested at their next meeting.

A motion was made, seconded and carried unanimously to approve the language except the health history questions.

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 the proposed rule amendment would not cause an adverse impact or increase regulatory costs.

The members were asked one more question: 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 the proposed rule amendment would not constitute a minor violation.

Action taken: language approved, no SERC

Rule 64B8-56.002, F.A.C.

Ms. Munson said there was a SERC in the materials concerning Rule 64B8-56.002, F.A.C. She said the Board ruled on the SERC previously and they received public comment. The Council revised the language and it was approved. She said they very recently received public comment again. The SERC was revised and presented to the members to approve.

A motion was made and seconded to approve the SERC.

It was determined the members did not receive a copy of the revised SERC. The final decision will be made after the members had a chance to read the SERC.

Legislative Discussion:

HB 329 – Laser Hair Removal or Reduction..... 8

Mr. Tellechea explained this bill was provided for information. He said a companion bill had been filed SB 570. He said both bills eliminate the Council and puts the regulatory authority on the Board of Medicine.

Dr. Lopez said they should have their own board.

A motion was made, seconded and carried unanimously to oppose the bills.

Action taken: bills opposed

Old Business:

None

New Business:

Rule 64B-3.008, FAC – Board Expert or Technical Advice (MQA Rule)..... 9

Mr. Tellechea reminded the Committee the Board had an expert witness committee that approved experts for the Department to use. He said the Board disbanded that committee.

Allison Dudley, Chief Medical Prosecutor, stated she reviews all applicants. and has denied a few including one where the physician does not practice in Florida. She said this process has been in place for about eight months and seems to be working smoothly.

New Business:

Mr. Tellechea said SB 732 has been filed regarding office surgery facilities. He said it has significant changes including the Board's rule office surgery rule language.

Chris Nuland, Esquire, representing the Florida Society of Plastic Surgeons, said he has been working with Senator Flores on the bill. The intent is the authorize the Board to have more regulatory authority of the physician and the facility. He admitted there were some flaws in the bill but they are working on it.

Mr. Tellechea said he would email a copy of the bill to the members and he would keep them updated on the progress of the bill.

Revisit Rule 64B8-56.002, F.A.C.

The Committee took a break to allow the members to read the SERC. When reconvened, Mr. Tellechea confirmed all members had the opportunity to read the materials.

The motion carried unanimously.

Action taken: SERC approved as is

The meeting adjourned at 3:57 p.m.