

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



**Regency Hyatt
9801 International Drive
Orlando, FL 32819
(800) 233-1234**

February 4, 2016

MEETING REPORT

Roll call 5:34 p.m.

Members Present:

Zachariah P. Zachariah, M.D., Chair
James W. Orr, Jr., M.D., Vice Chair
Enrique Ginzburg, M.D.
Steven Rosenberg, M.D.
Brigitte Goersch, Consumer Member
Seela Ramesh, M.D.
Bernardo Fernandez, M.D.

Members Absent:

Sarvam TerKonda, M.D.
Jorge Lopez, M.D.

Staff Present:

Adrienne Rodgers, J.D., Interim Executive Director
Edward Tellechea, Esquire, Board Counsel
Donna McNulty, Esquire, Board Counsel
Nancy Murphy, Certified Paralegal
Crystal A. Sanford, CPM, Program Operations Administrator (850) 421-0058

Others Present:

American Court Reporting
Suzette Bragg
425 Old Magnolia Road
Crawfordville, FL 32327

Rules Discussion:

Rule 64B8- 9.0141, F.A.C. - Standards for Telemedicine Practice.....1

The Board amended this rule at the last meeting to allow the prescribing of controlled substances for the treatment of psychiatric disorders. Mr. Tellechea discussed the Ryan Haight Online Pharmacy Consumer Protection Act of 2008 as it relates to the Board's telemedicine rule. He explained the Act's definition of "valid prescription" involves an in-person medical evaluation with the patient and physician physically present together. He informed the board that questions had been raised whether the Board's rule was inconsistent with the Act. Mr. Tellechea opined that the Board's rule is not inconsistent because physicians are required to comply with federal regulations and the Board's rule does not contravene that law. He asked Ms. Rodgers if Board staff could publish information on the Board's website about this matter. He recommended not changing the rule.

The Board members did not any changes to the rule at this time.

Ms. Murphy advised the rule would be adopted right after this meeting.

Meeting Report prepared by Crystal Sanford
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Action taken: none necessary

Rule 64B8- 9.0131, F.A.C. - Training Requirements for Physicians Practicing in Pain Management Clinics2

The Department revised their pain management clinic (PMC) registration rules to place into one rule all fees, including that for registration of a PMC. As a result of this change, the Board needs to revise rule 64B8-9.0131, FAC, to reflect the proper citation of Rule 64B-7.001, F.A.C.

A motion was made, seconded, and carried unanimously to notice this rule for development and to bring the proposed language to the next meeting.

Mr. Tellechea asked if Rule 64B-7.001, FAC, was effective.

Ms. Sanford advised it was effective November 2, 2015.

Mr. Tellechea then asked if rule 64B-4.006, FAC, had been repealed.

Ms. Murphy advised the rule had not yet been repealed.

Mr. Tellechea stated the Board could notice rule 64B8-9.0131, FAC, for development but could not move forward until rule 64B-4.006, FAC, was repealed.

A motion was made, seconded and carried unanimously to recommend noticing rule 64B8-9.0131, FAC, for development.

Action taken: notice rule for development pending repeal of rule 64B-4.006, FAC

January 2016 Rules Report3

This report was provided by Ms. Murphy for informational purposes.

No action necessary.

Update Regarding Rule 64B8-10.003, FAC – Costs for Reproduction of Medical Records5

Mr. Tellechea provided an update on the status of this rule pending ratification before the legislature. He explained the legislative committee members expressed concerns about the fiscal impact on patients and tabled ratification to get more information. He informed that Board that committee members wanted the actual cost to the physician for providing the records. The matter was rescheduled for hearing but was tabled again. He said he did not believe the rule would be ratified this session but would be brought back next year. He said if it was not ratified next year the Board would have to work on the rule again.

Mr. Tellechea also explained even though the Board won the rule challenge at the Division of Administrative Hearings level, the Administrative Law Judge’s opinion was appealed to the District Court of Appeal. He said the Office of the Attorney General is defending the appeal and he hopes to have it resolved by the end of the summer.

Dr. Rosenberg asked Mr. Tellechea to summarize this for the full Board at the Board General Business meeting tomorrow since all Board members do not attend the committee meeting.

Mr. Tellechea explained that Board counsel cannot lobby on behalf of the Board. Lobbying must be done by the interested parties such as individuals and professional associations.

Action taken: none necessary

Other Business:

State Consent for Research4

Dr. Ginzburg explained Texas and Colorado allow for community consent on trauma cases when the patient is unable to voice consent and a family member is not available. He said in Florida, only a family member may give consent in lieu of the patient.

Mr. Tellechea explained that to allow community consent in Florida would take a legislative change. He suggested the Board review the statutes from Texas and Colorado at the next meeting. If the Board members then want to pursue a legislative proposal they could do so for next legislative session on 2017.

Action taken: Staff to obtain the statutes from Texas and Colorado and the matter to be rescheduled for the next meeting.

There being no further business, the meeting adjourned at 5:52 p.m.