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Minutes
Florida Department of Health
Board of Osteopathic Medicine

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Rule Hearing
64B15-14.0051- Standards of Practice for Physicians Practicing in a Pain Management
Clinic and
64B15-14.0052- Requirement for Pain Management Clinic Registration; Inspection or
Accreditation

The Rosen Plaza Hotel
9700 International Drive
Orlando, FL 32819
(407) 996-9700

August 20, 2010 at 4:00pm

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The meeting was called to order by Dr. Rose, Chair, at 4:00 pm. Those present for all or part of the meeting included the following:

MEMBERS PRESENT:

Joel Rose, DO, Chair
Ronald Burns, DO
Allan Escher, DO
Anna Hayden, DO, Vice Chair

STAFF PRESENT:

Anthony Jusevitch, Executive Director
Christy Robinson, Program Administrator
Donna McNulty, Esq., Board Counsel
Tobey Schultz, Esq., PSU

MEMBERS ABSENT:

Rina Malan, DO
James St. Louis, DO

COURT REPORTER:

American Court Reporting
Suzette Bragg
407-896-1813

BOARD COUNSEL AND BOARD CHAIR OPENING REMARKS:

Dr. Rose provided opening remarks. He noted that the Joint Committee met in July and made some suggested changes to the rule.

Ms. McNulty explained that the Board of Medicine held their rule hearing in the beginning of August and made some changes to the language under the training requirements section: psychiatry was added to the list of residencies and the "post course exam" component was deleted from the continuing education requirement. She also pointed out some typographical errors that were found in the proposed rule.

Ms. McNulty explained the process for the continuation of rulemaking should changes arise from the Board's rule hearing.

1 Dr. Rose and Ms. McNulty explained the rationale behind the changes suggested by the
2 Committee to 64B15-14.0051, as a result of the July 24 meeting.

3
4 **PUBLIC COMMENTS:**

5
6 ***For exact testimony provided by all participants, please refer to the official meeting***
7 ***transcript, which can be found on the Board's website.***

8
9 **Katherine Galluzzi, DO, FACOFP, American Osteopathic Association (AOA)**

10 Dr. Galluzzi indicated that the AOA strongly supported the amendments made to the proposed
11 rule at the July 24 meeting, but they were concerned that the language would still create an
12 access to care issue by restricting well qualified osteopathic physicians. She indicated the
13 language, as written, only included the Certificate of Added Qualification (CAQ) in Pain
14 Management under the Anesthesiology Board Certification and noted the American Board of
15 Pain Medicine does not recognize AOA postgraduate training.

16
17 She noted the AOA asked their certifying boards to assess the percentage of questions
18 pertaining to pain- the Internal Medicine certification exam contained 1-2%, the CAQ in Hospice
19 and Palliative Care certification exam contained 10-15%, and the CAQ in Geriatric Medicine
20 certification exam has 3-4 % of the questions pertaining to pain. The American Osteopathic
21 Board of Physical Medicine and Rehabilitation written exam contains 16% pain questions and
22 the oral exam is made up of 32%. She also commented on the percentage of pain questions in
23 other specialties.

24
25 She indicated that although the exact percentage of pain questions of the American Osteopathic
26 Board of Family Physicians certification exam were not available, there were a number of
27 questions pertaining to diagnosis and treatment of pain.

28
29 The AOA recommended that section (n)1.be amended to include the following AOA board
30 certifications:

- 31 • AOA Board Certification in Physical Medicine and Rehabilitation
- 32 • Certificate of Added Qualification in Hospice and Palliative Medicine
- 33 • Certificate of Added Qualification in Geriatric Medicine

34
35 She noted the ACOFP indicated that pain is in the majority of the problems presented to family
36 practice physicians.

37
38 The AOA also recommended section (n)4. be amended to include the following residencies:

- 39 • Family practice
- 40 • Internal medicine
- 41 • Psychiatry
- 42 • Orthopedics

43
44 Dr. Galluzzi also voiced concern with section (n)6. She noted the availability of the level of
45 course specified in the rule may not always be readily available thus it could create an access to
46 care issue, especially in rural areas.

47
48 Dr. Rose and Ms. McNulty explained the rationale behind the changes suggested by the
49 Committee to 64B15-14.0052, as a result of the July 24 meeting.

1 **Chris Nuland, Esquire, Florida Academy of Pain Medicine (FAPM)**

2 Mr. Nuland asked that section (n)1. be amended to include psychiatry. He noted the FAPM
3 would support all of the recommendations suggested by the AOA in section (n)1. and 4. He
4 also asked that the post course test or examination component be deleted from the language in
5 (n)6., as it would be difficult for physicians to complete those types of courses in the time frame
6 listed.

7
8 **Paul Sloan, First Choice Pain Care Clinic**

9 Mr. Sloan asked that the Board approve the changes recommended by the Board of Medicine
10 and the Joint Committee at the July meeting. He also noted he was in support of the
11 recommendations made by Mr. Nuland and the AOA. He voiced concern with the 3 year
12 grandfathering clause. He further noted the American Academy of Pain Management should be
13 included in the language as an acceptable pain management board certification.

14
15 Dr. Rose asked for clarification as to who was allowed to sit for the American Academy of Pain
16 Management exam. Mr. Sloan advised that the Executive Director of the academy was present
17 and would be better suited to answer the question.

18
19 **Lenore Duensing, Executive Director, American Academy of Pain Management**

20 Ms. Duensing advised the Board they also supported the AOA's recommended changes to the
21 rule. She offered clarification to the question asked regarding who can take their examination.
22 She stated the same exam is given to physicians and non-physician members. Ms. Duensing
23 asked that the American Academy of Pain Management be added to list of approved pain
24 management board certification bodies.

25
26 Ms. Duensing voiced concern that restrictions listed in the current language will create a health
27 crisis as there will not be an adequate number of physicians to treat pain in pain management
28 clinics.

29
30 She noted that there are currently 50 osteopathic physicians holding their credential in Florida
31 and that the credential is good for 4 years.

32
33 **Nabil Barsoum, MD, Clinical Associate Professor at Nova Southeastern University**

34 Dr. Barsoum voiced concern with board certified family practice physicians being excluded from
35 the rule. He stated that family practice physicians receive the same level of training in
36 prescribing controlled substances as any other specialty. He went on to say that many family
37 practice physicians have already begun to stop prescribing controlled substances and there will
38 be an access to care issue in the state.

39
40 He recommended eliminating the residency option in the rules and require continuing education
41 on an ongoing basis. What was learned in the residency may have changed if it was completed
42 several years ago. He indicated that some geriatric practices have greater than 50% of their
43 patients being prescribed controlled substances.

44
45 Dr. Barsoum voiced concern with osteopathic physicians being able to make their community
46 aware of osteopathic manipulative treatment for pain without violating the pain clinic law.

1 **BOARD DISCUSSION:**

2
3 **64B15-14.0051 – Standards of Practice for Physicians Practicing in Pain Management**
4 **Clinics**

5
6 The Board voted on the language in 64B15-14.0051 in sections.

7
8 *Preamble and sections (1) – (2)(m)*

9
10 **Action Taken:** Dr. Burns moved to approve the language as presented including the
11 typographical corrections in (n)(1). Dr. Hayden seconded the motion, which passed
12 unanimously.

13
14 *Section (2)(n)1-3 - Training Requirements*

15
16 **Action Taken:** Dr. Burns moved to approve the language as presented. Dr. Hayden seconded
17 the motion, which passed unanimously.

18
19 *Section (2)(n)4 – Training Requirements*

20
21 **Action Taken:** Dr. Burns moved to approve the language as presented with the addition of:

- 22 • CAQ in Hospice and Palliative Medicine and CAQ in Geriatric Medicine
- 23 • Residency in Family Practice, Internal medicine, Psychiatry, Orthopedics

24 Dr. Hayden seconded the motion. There was additional discussion prior to the vote.

25
26 During discussion, Dr. Escher indicated that he was against adding the above specialties/
27 programs and stated this would be setting a bad precedent. He also noted that having different
28 requirements would make it difficult for the Department to track which physicians were
29 appropriately trained.

30
31 There was further discussion regarding the difference between competencies and curriculum.

32
33 After much discussion, the motion passed with Dr. Escher opposed.

34
35 *Section (2)(n)6- Training Requirements*

36
37 **Action Taken:** Dr. Burns moved to delete the post course test or examination component from
38 this section. Dr. Hayden seconded the motion, which passed unanimously.

39
40 *Section (2)(n)6 – (o)- Training Requirements*

41
42 **Action Taken:** Dr. Hayden moved to approve the remaining language as presented. Dr. Burns
43 seconded the motion, which passed unanimously.

44
45 **The Rule Hearing took a brief recess to attend to a full board meeting item.**

46
47 **64B15-14.0052 – Requirements for Pain Management Clinic Registration; Inspection or**
48 **Accreditation**

49
50 The Board discussed the proposed changes to 64B15-14.0052.

1 **Action Taken:** Dr. Hayden moved to approve the language in 64B15-14.0052 as presented.
2 Dr. Burns seconded the motion, which passed unanimously.

3
4 Revisit of section (2)(n)4- Training Requirements

5
6 Ms. McNulty advised the members she drafted language during the break based on their
7 proposed changes. She questioned whether or not ACGME residencies were always approved
8 by the AOA. It was clarified that ACGME residencies are not always approved by the AOA.

9
10 Ms. McNulty advised the Board that they should only include those programs approved by the
11 AOA in their rule as they had not received similar testimony from the ACGME regarding their
12 programs.

13
14 **Action Taken:** Dr. Burns moved to amend the language in section (2)(n)4. to read:

15
16 4. a. Successful completion of a residency program in physical medicine and rehabilitation,
17 anesthesiology, neurology, neurosurgery, or psychiatry approved by the ACGME or the AOA;
18 b. Successful completion of a residency program in family practice, internal medicine, or
19 orthopedics approved by the AOA; or
20 c. Current Certificate of Added Qualification approved by the AOA in hospice, palliative
21 medicine or geriatric medicine.

22
23 Dr. Hayden seconded the motion, which passed with Dr. Escher opposed.

24
25 Dr. Rose asked that Mr. Sloan provide additional testimony on physicians that would be effected
26 by the 3-year requirements listed in section (2)(n)6.

27
28 Mr. Sloan reiterated his recommendation that the American Academy of Pain Management be
29 added to the language. Dr. Rose commented there was concern with non-physicians being
30 allowed to take the same exam and receive the same credential form that entity.

31
32 Mr. Sloan voiced concern with the 3-year practice requirement listed in (n)6. He noted the
33 purpose of grandfathering should be to allow those affected physicians to continue to practice,
34 rather than adversely affecting physicians that may be appropriately qualified. He explained it
35 may be difficult for a physician to prove how many hours they practiced "pain management" over
36 the time period.

37
38 Ms. Robinson explained the list being referenced was pulled from the practitioner profile data,
39 which was self reported by the physicians. She explained that she attempted to obtain direct
40 source verification regarding the board certification of the physicians on the list via the ABMS
41 website. In doing so, she was advised that because she was conducting the research on behalf
42 of a government entity there would be a monetary charge for the data.

43
44 Revisit of section (2)(n)6- Training Requirements

45 In the abundance of caution the Board voted on the changes.

46
47 **Action Taken:** After much discussion, Dr. Burns moved to approve the language in section
48 (2)(n)6 as presented with the deletion of the "post test or exam" component. Dr. Hayden
49 seconded the motion, which passed unanimously.

50
51 **There being no further business the rule hearing adjourned at 6:30 pm.**