

1 **DRAFT MINUTES**
2 **BOARD OF OSTEOPATHIC MEDICINE**
3 **December 15, 2010**

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5 **Telephone Conference Call Meeting**
6 **Call in Number: 888-808-6959**
7 **Conference Code Number: 6321783289**
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11 **Wednesday, December 15, 2010**

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13 The meeting was called to order by Dr. Hayden, Vice Chair, at 1:00 pm. Those present for all or part of
14 the meeting included the following:
15

MEMBERS PRESENT:

Joel Rose, D.O., Chair (present at 1:10)
Ronald Burns, D.O.
Anna Hayden, D.O., Vice Chair
James St. Louis, D.O.
Rina A. Malan - Consumer Member

BOARD STAFF PRESENT:

Anthony Jusevitch, Executive Director
Christy Robinson, Program Operations Administrator

BOARD COUNSEL:

Donna McNulty, Esquire
Nancy Murphy, Paralegal

MEMBERS NOT PRESENT:

Allan Escher, D.O.

COURT REPORTER:

For the Record
(850) 222-5491

16
17 **Please note that the meeting minutes reflect the actual order that agenda items were discussed**
18 **during the meeting and may differ from the agenda outline.**
19

20 **DISCUSSION REGARDING RECENT LEGISLATION**
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22 **Tab 1 - HB 1565 (2010) – Relating to Rulemaking**

23 Ms. McNulty explained the impact HB 1595 would have on the rulemaking process. She explained the
24 Legislature overturned the previous veto of this bill during the special session held in November. She
25 noted it was the position of the Joint Administrative Procedures Committee (JAPC) that any rule not in
26 effect prior to November 17, 2010 would be subject to the provisions of the new law.
27

28 Ms. McNulty advised the new law would require any rule found as having an adverse impact on small
29 business would have to go through the new process, including ratification by the Legislature. She also
30 explained a more enhanced analysis of the effect on small business and regulatory costs would have to
31 be conducted on rules. She noted two main questions would have to be asked during the rule making
32 process:
33

- 34 1. Will the proposed rule amendments have an adverse impact on small business; or
35 2. Will the proposed rule amendments be likely to directly or indirectly increase regulatory costs to any
36 entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after the
37 implementation of the rule?
38

39 Ms. McNulty also explained a more in-depth Statement of Estimated Regulatory Costs (SERC) would
40 need to be prepared for Boards to consider. She noted the Department recently contracted with an

1 economist from Florida State University to assist with the preparation of SERCs for the pain
2 management clinic rules of both Boards.

3 4 **RULES DISCUSSION**

5 6 Rules Filed for Adoption:

7 Ms. McNulty explained the below rule amendments were already approved by the Board and would
8 need the new questions asked to determine if a SERC would be needed under the new guidelines.

9 10 **Tab 2 - 64B15-6.003 – Physician Assistant Licensure**

11 **Action Taken:** Dr. Hayden moved to find that the proposed changes would not have an adverse
12 impact on small business and they were not likely to directly or indirectly increase regulatory costs to
13 any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after
14 the implementation of the rule. Ms. Malan seconded the motion, which passed unanimously.

15 16 **Tab 3 - 64B15-12.0031 - Registration as Dispensing Physician; Delegation to Prescribing PA**

17 **Action Taken:** Dr. Burns moved to find that the proposed changes would not have an adverse impact
18 on small business and they were not likely to directly or indirectly increase regulatory costs to any entity
19 (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after the
20 implementation of the rule. Dr. Hayden seconded the motion, which passed unanimously.

21 22 **Tab 4 - 64B15-14.001 - Advertisings**

23 **Action Taken:** Dr. Burns moved to find that the proposed changes would not have an adverse impact
24 on small business and they were not likely to directly or indirectly increase regulatory costs to any entity
25 (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after the
26 implementation of the rule. Dr. Hayden seconded the motion, which passed unanimously.

27 28 **Tab 5 - 64B15-18.003 - Medicinal Drugs Which May be Ordered by Pharmacists**

29 **Action Taken:** Dr. Hayden moved to find that the proposed changes would not have an adverse
30 impact on small business and they were not likely to directly or indirectly increase regulatory costs to
31 any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after
32 the implementation of the rule. Dr. St. Louis seconded the motion, which passed unanimously.

33
34 **Dr. Rose joined the call at 1:10 p.m.**

35 36 Rule Language Noticed but Not Yet Adopted:

37 Ms. McNulty explained the below rule amendments were already approved by the Board and would
38 need the new questions asked to determine if a SERC would be needed under the new guidelines.

39 40 **Tab 6 - 64B15-7.010 - Disciplinary Guidelines for Anesthesiology Assistants**

41 **Action Taken:** Dr. Burns moved to find that the proposed changes would not have an adverse impact
42 on small business and they were not likely to directly or indirectly increase regulatory costs to any entity
43 (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after the
44 implementation of the rule. Ms. Malan seconded the motion, which passed unanimously.

45 46 **Tab 7 - 64B15-12.005 - Limited Licensure**

47 **Action Taken:** Dr. Hayden moved to find that the proposed changes would not have an adverse
48 impact on small business and they were not likely to directly or indirectly increase regulatory costs to
49 any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after
50 the implementation of the rule. Dr. Burns seconded the motion, which passed unanimously.

51 52 Rule Language Voted Upon but Not Yet Noticed in the FAW:

53 Ms. McNulty explained the below rule amendments were already approved by the Board and would
54 need the new questions asked to determine if a SERC would be needed under the new guidelines.

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3 **Tab 8 - 64B15-14.005 - Standards for the Use of Controlled Substances for the Treatment of Pain**

4 **Action Taken:** Dr. Burns moved to find that the proposed changes would not have an adverse impact
5 on small business and they were not likely to directly or indirectly increase regulatory costs to any entity
6 (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after the
7 implementation of the rule. Dr. Hayden seconded the motion, which passed unanimously.
8

9 **Tab 9 - 64B15-19.002 - Violation and Penalties**

10 **Action Taken:** Dr. Burns moved to find that the proposed changes would not have an adverse impact
11 on small business and they were not likely to directly or indirectly increase regulatory costs to any entity
12 (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after the
13 implementation of the rule. Dr. Hayden seconded the motion, which passed unanimously.
14

15 Pain Clinic Rules:

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17 **Tab 10 - 64B15-14.0051 - Standards of Practice for Physicians Practicing in Pain Management**
18 **Clinics**

19 Ms. McNulty explained the Board of Medicine recently changed the requirement for the quality
20 assurance review by a risk manager from every year to every 3 years. She presented draft language
21 for the Board's review to reflect this change.
22

23 **Action Taken:** Dr. Burns moved to approve the changes as presented and proceed with rulemaking.
24 Dr. Hayden seconded the motion, which passed unanimously.
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26 **Additional Action Taken:** Dr. Burns moved to find that the proposed changes would not have an
27 adverse impact on small business and they were not likely to directly or indirectly increase regulatory
28 costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1
29 year after the implementation of the rule. Dr. Hayden seconded the motion, which passed
30 unanimously.
31

32 **Tab 11 - 64B15-14.0052 - Requirement for Pain Management Clinic Registration; Inspection or**
33 **Accreditation**

34 No action required.
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36 **Tab 12 - 64B15-14.0053 - Approval of Pain Management Clinic Accrediting Organizations**

37 **Action Taken:** Dr. Hayden moved to find that the proposed changes would have an adverse impact on
38 small business and they were likely to directly or indirectly increase regulatory costs to any entity
39 (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after the
40 implementation of the rule, and a SERC would be needed. Dr. Burns seconded the motion, which
41 passed unanimously.
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43 **Tab 13 - 64B15-14.0054 - Maximum Number of Prescriptions in Registered Pain Management**
44 **Clinics**

45 Ms. McNulty presented the Board with draft language that would add the term "per physician" in the
46 rule, in an attempt to clarify the intent of the language.
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48 **Action Taken:** Dr. Burns moved to approve the changes as presented and proceed with rulemaking.
49 Dr. Hayden seconded the motion, which passed unanimously.
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51 **Additional Action Taken:** Dr. Burns moved to find that the proposed changes would have an adverse
52 impact on small business and they were likely to directly or indirectly increase regulatory costs to any
53 entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after the

1 implementation of the rule, and a SERC would be needed. Dr. Hayden seconded the motion, which
2 passed unanimously.

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4 Area of Critical Need Rules:

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6 **Tab 14 - 64B15-12.010 – Temporary Certificate to Practice in an Area of Critical Need**

7 **Action Taken:** Dr. Burns moved to approve the language and form as presented with the correction of
8 the creation date to reflect “12/10”. Dr. St. Louis seconded the motion, which passed unanimously. Dr.
9 Burns moved to proceed with rulemaking. The motion was seconded and passed unanimously.

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11 **Additional Action Taken:** Dr. Burns moved to find that the proposed changes would not have an
12 adverse impact on small business and they were not likely to directly or indirectly increase regulatory
13 costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1
14 year after the implementation of the rule. Ms. Malan seconded the motion, which passed unanimously.

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16 **Tab 15 - 64B15-10.002 – Application and Licensure Fees**

17 **Action Taken:** Dr. Burns moved to approve the language as presented. Dr. St. Louis seconded the
18 motion, which passed unanimously.

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20 **Additional Action Taken:** Dr. Hayden moved to find that the proposed changes would not have an
21 adverse impact on small business and they were not likely to directly or indirectly increase regulatory
22 costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1
23 year after the implementation of the rule. Dr. Burns seconded the motion, which passed unanimously.

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25 **Additional Action Taken:** Dr. Burns moved to proceed with rulemaking. Dr. Hayden seconded the
26 motion, which passed unanimously.

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28 **REVIEW OF EXPERT WITNESS APPLICATIONS**

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30 **Tab 16 - Michael Creamer, DO**

31 **Tab 17 - Sander E. Kabel, DO**

32 **Tab 18 - Paul Mozen, DO**

33 Tabs 16-18 were voted on as a whole.

34
35 **Action Taken:** Dr. St. Louis moved to approve the expert witnesses. Dr. Hayden seconded the
36 motion, which passed unanimously.

37
38 **Old Business**

39
40 **New Business**

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42 **There being no further business the meeting adjourned at 1:50 p.m.**