



**Florida Board of Medicine
Joint Boards of Medicine and Osteopathic Medicine
Medical Marijuana Committee Meeting**

**Hyatt Regency Miami
400 SE 2nd Avenue
Miami, Florida 33131
(305) 358-1234**

August 3, 2017

Meeting Report

Roll call 3:00 p.m.

Members Present:

Steven Rosenberg, M.D., Temporary Chair
Zachariah P. Zachariah, M.D.
Nicholas Romanello, Esq., Consumer Member
James W. Orr, Jr., M.D.
Joel Rose, D.O.
Sandra Schwemmer, D.O.
Michelle Mendez, D.O.

Members Absent:

Staff Present:

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

Others Present:

Court Reporter:

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Election of Officers

A motion was made, seconded and carried unanimously to elect Dr. Rosenberg as Chair.

A motion as made, seconded and carried unanimously to elect Dr. Schwemmer as Vice Chair.

Action taken: Dr. Rosenberg is Chair, Dr. Schwemmer is Vice Chair

Public Comments:

Jason Winn, Esquire, representing the Florida Osteopathic Medical Association, addressed the Committee in full support of the consent form.

Jessica McCain, M.D., addressed the Committee next. She discussed the impracticality for physicians if they cannot delegate the signing of the consent form to someone else in the office.

Mr. Tellechea asked if the patient had questions, who would be responsible for answering them if the physician was not discussing the consent form with the patient.

Mr. Romanello said the physician always goes over the consent form with the patient.

Ms. McNulty quoted the statute which requires the qualified physician to obtain the consent.

Sasha Noe, D.O. addressed the Committee. She said physicians must document in the medical record and then turn around and submit documentation to the Board's any conditions not listed in the statute. She asked where that information should be sent.

Dr. Rose said it would go to the respective Board.

Ms. Kemp stated she has received a few already and the information being provided does not meet the requirements of the statute. She said a form needs to be developed and she will encourage that it be in a pdf format.

Dr. Rose asked staff to consider putting it in a system that can have reports run for various pieces of information.

Dr. Mendez said the statute is clear and it should not be difficult for staff to create a form and to make it clear the form does not go to the Board Members, but to the Board Office.

Ms. Kemp stated the Department would be creating a separate email box for the forms to be submitted.

Dr. Noe stated it was extensive documentation which requires the physician to put the information in the medical record and on the form. She asked to consider that when creating the form.

Dr. Mendez said the Department will create the form and the physicians should work with their EHR provider.

Michelle Weiner, M.D. addressed the Committee in support of the consent form. Her only comment was some of the statements are too vague and she asked the Committee to consider including other conditions that can be treated with medical marijuana.

Daniel Sparks with Biotrack said his organization can assist with a depository for the information, issue the cards and facilitate compliance with the statutes.

Eric Stevens with Florida for Care, echoed everyone else's comments and asked the Committee to look at other conditions and provide guidance to physicians.

Consent Form Discussion:.....1

Emergency Rules 64B8ER17-1 (64B8-9.018) and 64B15ER17-1 (64B15-14.013)2

Mr. Tellechea stated he received feedback from the Legislature regarding the proposed consent form. He said it is the board's responsibility to provide the current research on the qualified conditions. He went on to say that the National Institute of Health Report has a synopsis of the current state of research on the conditions in the law. He suggested transferring the information into the informed consent and have the physicians responsible for the current research on the other similar conditions.

Dr. Mendez asked if the rule could cite to the report rather than the synopsis be included in the rule.

Mr. Tellechea said when the patient is giving consent, the patient should have all the information in front of them. He suggested only attaching the information on the condition(s) for which the patient is being treated.

Ms. McNulty said the other national report has information on ten of the conditions.

Dr. Rosenberg asked staff to report and pull out the conditions.

Ms. Kemp said staff could work on creating the consent and a series of attachments.

Mr. Romanello said as research changes only the attachments would have to be changed.

Dr. Orr said the current form is not molded for attachments and needs to be changed as well.

Mr. Tellechea recommended the language in the form should be changed to add "see attachment".

Dr. Rose expressed concern the report said no evidence or limited evidence on research on some of the conditions.

Mr. Tellechea said that it is in everyone's best interest to get this informed consent done and then the Committee can come back and discuss these issues more in depth during the normal process.

Dr. Mendez said the National Academy of Health website has information regarding current research and suggested we add the six pages of synopsis to the rule.

Mr. Tellechea said a summary is acceptable as long as the patient can read it and understand it right when the patient is signing the form.

Dr. Rosenberg asked if this information could be sent out to the members to review and provide comments back to Ms. Kemp prior to the next meeting.

Mr. Tellechea said that was okay as long as the members replied back to only Ms. Kemp.

Ms. Kemp asked if subsection c regarding the current research could be moved to the end of the consent form closer to the attestation.

Mr. Tellechea said he thought that was a good idea.

Dr. Rosenberg asked Dr. Orr to address subsection g regarding being pregnant and/or breastfeeding.

Dr. Orr said the language should be changed to read:

I understand that medical marijuana may have serious risks and may cause low birth weight or other abnormalities in babies. I will advise Dr. _____ if I become pregnant, try to get pregnant, or will be breastfeeding.

Rule 64B8ER17-2 (64B8-8.001) (Disciplinary Guidelines MD) and 64B15ER17-2 (64B15-19.002) (Disciplinary Guidelines DO)3

Mr. Tellechea explained that disciplinary guidelines are set higher than normal because they serve as a guide. The guidelines do not apply to Settlement agreements. He said the guidelines create an incentive to settle a disciplinary case and typically the discipline will be something less in a Settlement Agreement.

Dr. Rose said he thinks probation for a first offense is too harsh.

Mr. Tellechea explained the disciplinary guidelines must create a meaningful range of penalties which put physicians on notice regarding penalties for violations.

A motion was made, seconded and carried unanimously to accept the proposed disciplinary guidelines.

Mr. Tellechea said once both Boards have approved the consent form, he can move forward with publishing the emergency rules.

Ms. McNulty asked if the requested changes could be made by the August 25, 2017 meeting of the Osteopathic Board in Orlando.

Ms. Mendez said to have it added to the current agenda.

Ms. Kemp said the statute requires the boards to create a panel to review physician certifications and provide an annual report to the Governor and the Legislature. She asked if the Committee would want to be that panel.

Dr. Rosenberg said we will continue this Committee for that purpose.

The meeting adjourned at 3:51 p.m.