

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Rachakonda D. Prabhu, M.D.
Board President



Edward O. Cousineau, J.D.
Executive Director

*** * * MINUTES * * ***

OPEN SESSION RI00-17 SUBCOMMITTEE MEETING

Held in the Conference Room at the Offices of the Nevada State Board of
Medical Examiners/Nevada State Board of Dental Examiners
6010 S. Rainbow Boulevard, Building A, Suite 1, Las Vegas, Nevada 89118

and videoconferenced to

the Conference Room at the Offices of the
Nevada State Board of Medical Examiners
9600 Gateway Drive, Reno, Nevada 89521

WEDNESDAY, MAY 2, 2018 – 2:00 P.M.

Subcommittee Members Present at Board Office in Las Vegas

Victor M. Muro, M.D., Chair
Daniel Burkhead, M.D.
Senator Joseph P. Hardy, M.D.
Catherine O'Mara, J.D.
Rupesh Parikh, M.D.
Robert Pretzlaff, M.D.
Crane Pomerantz, J.D.
Erin Russell, Ph.D.
Faisal Suba, M.D.

Subcommittee Members Present at Board Office in Reno

Paul Edwards, J.D.
Wayne Hardwick, M.D.
Karen Massey, MHA, FACMPE, CPMMSM
Michael Salas, M.D.
Dave Wuest, R.Ph.

Subcommittee Members Absent

Michael C. Edwards, M.D., FACS
Rudy Manthei, D.O.
Ms. April Mastroluca
Ms. Karen Rubel

Staff/Others Present at Board Office in Reno

Edward O. Cousineau, J.D., Executive Director
Jasmine K. Mehta, J.D., Deputy Executive Director
Laurie L. Munson, Chief of Administration and Information Systems
Brenda Riviera, Finance Assistant
Henna Rasul, J.D., Senior Deputy Attorney General

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum

The meeting was called to order by Dr. Muro at 2:04 p.m.

Ms. Mehta took roll call of the Subcommittee members. Subcommittee members not present were Michael C. Edwards, M.D., Rudy Manthei, D.O., Ms. April Mastroluca, Catherine O'Mara, J.D., Robert Pretzlaff, M.D., Ms. Karen Rubel and Faisal Suba, M.D. Ms. Mehta announced there was a quorum. Ms. O'Mara and Dr. Pretzlaff arrived subsequent to the roll call.

Agenda Item 2

PUBLIC COMMENT

Dr. Muro asked whether there was anyone in attendance who would like to present public comment.

James G. Marx, M.D. said he was a Board Certified Pain Management physician and an Anesthesiologist practicing in Las Vegas. He stated there is an escalating number of patients contacting his office who are frantic because their providers have withdrawn their prescribing for opioids. As far as they can determine, virtually all these patients have legitimate conditions. It is not possible to see these patients at the rate they are contacting his office, and believes this a public health dilemma and a serious issue that this legislation has contributed to. He is hoping for some sort of mitigating regulation that will allow these patients to have prescribers that are willing to do the necessary prescribing for them.

Agenda Item 3

APPROVAL OF MINUTES

- April 11, 2018 Subcommittee Meeting – Open Session

Senator Hardy moved that the Board approve the Minutes of the April 11, 2018 Subcommittee Meeting – Open Session. Dr. Burkhead seconded the motion, and it passed unanimously.

Agenda Item 4

COLLECTION OF MEMBER INPUT AND CONSIDERATION OF RECOMMENDATIONS REGARDING PROPOSED REGULATION R100-17 AND PROPOSED REGULATIONS TO CLARIFY IMPLEMENTATION OF ASSEMBLY BILL 474 (2017)

Ms. Mehta explained the handout that had been provided to the Subcommittee members was a Memorandum to the Subcommittee attaching a proposed letter to the Board of Medical Examiners for its June 1, 2018 meeting. The letter recommends that the Board of Medical Examiners support the Board of Pharmacy's proposed regulations, as set forth in the attachment, as well as the Option 1/Option 2 regulation that was discussed at the last Subcommittee meeting, which is in the body of the letter itself. She said the second part of the letter discusses the disciplinary regulation and the Subcommittee's recommendation that the Board withdraw R100-17 and start the regulatory process anew with the language set forth on the second page of the letter, which was discussed at the last meeting as well.

Discussion ensued regarding the Board of Pharmacy's proposed regulations and the Legislative Counsel Bureau's (LCB) regulatory language.

Mr. Wuest explained that the LCB had initially missed the language regarding the medication agreement, and the Pharmacy Board requested that it be added. There will be a hearing on the proposed regulations in June.

Dr. Suba joined the meeting at 2:18 p.m.

Senator Hardy outlined Sections 1-6 of the Pharmacy Board's proposed regulations, R047-18, stated he liked all of that, and then asked what was missing.

Mr. Wuest explained what was missing from that version was the language regarding the medication agreement, which is contained in Section 7 of revised proposed regulations R047-18

Senator Hardy moved to accept the proposed regulations (Attachment 1 to Attachment A to the Memorandum), including Section 7 that will be fleshed out by the LCB. Ms. O'Mara seconded the motion, and it passed unanimously.

Ms. O'mara moved to add to the letter to the Board of Medical Examiners (Attachment A to the Memorandum), under "Board of Pharmacy Proposed Regulations," the pain medication agreement language, as decided at the last Subcommittee meeting. Dr. Burkhead seconded the motion, and it passed unanimously.

Discussion ensued regarding the wording of the proposed disciplinary regulation, and whether it would be appropriate to either move Subsection 1(b) above Subsection 1, so that the good faith precedes the "will" language regarding imposition of disciplinary action, or change Subsection 1(b) to be Subsection 2.

Ms. O'Mara suggested also recommending to the Board of Medical Examiners that some type of education be provided to its licensees regarding the disciplinary process in general.

Discussion ensued regarding the importance of education with respect to the Board of Medical Examiners' disciplinary process.

Further discussion ensued regarding possible renumbering of the proposed disciplinary regulation.

Ms. O'Mara moved to change subsection 1(b) to Section 1 and Section 1 to Subsection 2. Senator Hardy seconded the motion, and it passed unanimously.

Ms. Mehta clarified that the language would remain the same; the paragraphs would just be renumbered.

Ms. O'Mara moved to include in the letter to the Board of Medical Examiners that the Subcommittee would like to see some education done on the disciplinary process. Dr. Burkhead seconded the motion.

Mr. Cousineau stated for the record that the Board does outreach on a regular basis and has modified its outreach program to include the new requirements under AB474. So there may not be much need for additional training; perhaps just more regular offering of the outreach presentation.

Ms. O'Mara stated she had attended some of those presentations, and they are really good for the licensees; however, she had the sense at the last Subcommittee meeting that the Subcommittee members did not feel comfortable they knew the rules, so she feels that licensees would benefit from an update in the newsletter.

Additional discussion ensued regarding possible modes of education that might be offered to licensees.

Ms. O'Mara restated her motion to include in the letter to the Board of Medical Examiners the recommendation that further education be provided. Dr. Burkhead seconded the motion, and it passed unanimously.

Dr. Muro asked what the Subcommittee was to do next.

Ms. Mehta stated at the last meeting, the Subcommittee discussed that the minutes of this meeting would be circulated and the Subcommittee members could send comments to her, and had given approval that Dr. Muro could finalize and approve the minutes.

Ms. Mehta then asked for clarification regarding the proposed addition to the letter to the Board of Medical Examiners regarding education with respect to the Board's disciplinary process. She suggested the following language: that prior to the paragraph that begins with "[t]he Subcommittee's final meeting," a sentence be inserted that says, "[T]he Subcommittee would also like to recommend further outreach on the Board's investigation and disciplinary processes, such as newsletter and website outreach," and asked whether that would be sufficient.

Dr. Hardy stated the codification of AB474 changed the subsections in NRS 630.3062 from numbers to letters.

Discussion ensued regarding "classification of medication" verses "class of medication" in the language of the Board of Pharmacy's proposed regulations, with respect to consistency and avoiding confusion.

Dr. Burkhead moved to change "classification" to "class" in the Board of Pharmacy's proposed regulations. Dr. Pretzlaff seconded the motion, and it passed unanimously.

Dr. Salas said that the Legislature will need to address the morphine equivalent dose and duration of therapy for opioids, the CDC guidelines regarding those, and federal-state congruence issues.

Ms. O'Mara moved that the Subcommittee forward the letter, with the Subcommittee's changes, to the Board of Medical Examiners for consideration at its June 1, 2018 meeting. Dr. Burkhead seconded, and it passed unanimously.

Discussion ensued regarding updates being provided to the Subcommittee members following disbandment of the Subcommittee.

Mr. Cousineau said, on behalf of the Board, he wanted to thank the members of the Subcommittee for their time and efforts, and also thanked staff, and in particular Ms. Mehta, Ms. Munson and Ms. Riviera, for their efforts.

Mr. Muro thanked everyone for their time and participation in the process, including the Board of Pharmacy.

Agenda Item 5
PUBLIC COMMENT

Dr. Muro asked whether there was anyone in attendance who would like to present public comment.

James G. Marx, M.D. thanked the Subcommittee for its efforts. Dr. Marx said he had concerns about a couple of comments made during the discussions, the first with respect to the CDC guidelines. He said there were a number of Subcommittee members that had noted concern with how they have been imposed and that they were never intended to be hard stops or hard casts. That was never the intention of the guidelines. Furthermore, the guidelines were not intended for treatment of patients with chronic pain, but really more geared towards the primary care environment. This whole guideline has morphed into a monster that has become all-encompassing, and all members of the Board need to take that into account and not rely upon the CDC guidelines as some holy grail. His second concern was a comment about the length of time patients receive post-operative medications creating a higher risk of prolonged medication. He thinks relying on statistics where you have an association doesn't necessarily substantiate the fact that there is a cause-and-effect relationship. It is not necessarily causation; it is only an association; so you have to be a little more analytical. His last concern is the feedback he is receiving in talking with physicians. The more physicians find out and the more educated they become about this legislation, the more likely they are to completely withdraw from this whole prescribing practice. Unfortunately, the more people find out about it, the less they want anything to do with it. The unintended consequences of this law have been monumental.

Agenda Item 6
ADJOURNMENT

Ms. O'Mara moved to adjourn the meeting. Dr. Pretzlaff seconded the motion, and it passed unanimously. Dr. Muro adjourned the meeting at 3:00 p.m.

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