Joint Committee on Controlled Substances
Universal DoubleTree
5780 Major Blvd.
Orlando, FL
June 21, 2018

MEETING MINUTES

Board of Medicine
Jorge Lopez, M.D.
Hector Vila, M.D.
Stephanie Haridopolos, M.D.
Executive Director: Claudia Kemp, J.D.
Board Counsel: Edward Tellechea, Esquire

Council on Physician Assistants
Dayne Alonso, P.A.C.

Board of Osteopathic Medicine
Joel Rose, D.O.
Sandra Schwemmer, D.O.
Michelle Mendez, D.O.
Executive Director: Kama Monroe

Board of Dentistry
T.J. Tejera, D.M.D., M.D.
Naved Fatmi, D.M.D.
Executive Director: Jennifer Wenhold
Board Counsel: David Flynn, Esquire

Board of Nursing
Mary Julie Talmadge, D.N.P., A.R.N.P.
Executive Director: Joe Baker
Board Counsel: Lee Ann Gustafson, Esquire

Board of Optometry
Chris King, O.D.
Executive Director: Anthony Spivey, D.B.A.
Board Counsel: Mary Ellen Clark, Esquire

Board of Pharmacy
Jeenu Philip, BPharm
Jeffrey Mesaros, PharmD, J.D.
Executive Director: Erica White, M.B.A., J.D.
Board Counsel: David Flynn, Esquire

Board of Podiatric Medicine
Mark Block, D.P.M.
Soorena Sadri, D.P.M.
Executive Director: Erica White
Board Counsel: Mary Ellen Clark, Esquire

Staff present:
Nancy Murphy, Certified Paralegal
Stephanie Loughmiller, Administrative Assistant
Carol Taylor, Program Operations Administrator

Others Present:
American Court Reporting
Suzette Bragg
425 Old Magnolia Road
Crawfordville, Florida 32327

Meeting began at 1:00 PM

Call to Order by Dr. Jorge Lopez.

Opening Statement by Claudia Kemp

Introduction of Meeting Participants

Dr.Jorge Lopez provides statement about the joint committee coming together to address implementation of HB 21.

Ed Tellechea talks about rules of orders and elections of a chair and vice chair of this committee. Nominations for Dr. Vila as chair, Dr. Tejera for vice chair. Only nominations, both elected unanimously.

Dr. Vila introduced draft rule and asks for Mr.Tellechea to outline the proposed rule. Mr.Tellechea provided historical context for draft, rules, and statutes.

Dr. Vila provided outline for discussion and how to proceed. Discussion included defining which draft we are working from – most recent draft focuses on acute pain.

Discussion opened on lines 1 through 23. Mr. Tellechea pointed out these definitions are nearly identical to statute – only sentences 1-4 differ. After questions by Dr. Schwemmer and Dr. Mendez the discussion moved on.

Discussion on "Evaluation of Patient" lines 23-26. Question from Dr. Mendez on scope of rule. Dr. Rose asked about use of word "focused" and if it would cause issues re: billing codes and focus on injury not patient history with controlled substances. History of controlled substances to be addressed later in rule.

Discussion on Treatment plan, lines 27 – 30. Dr. Lopez comments treatment plan from emergency rooms may not be very comprehensive for some injuries such as a broken finger.

Dr. Tejera comments about need to provide non-opioid options under some circumstances. Tellechea pointed out words "if indicated" would cover if it is not appropriate.

Dr. Mendez pointed out that "physician" does not cover all prescriber, Tellechea states he expects each board to adjust that term before adopting the rule.

Dr. Mendez also suggested changing "Drug therapy" to "medication therapy". Also adding language about practicing setting and circumstances (lines 24 and 25) to treatment plan subsection as well.

Discussion ensued about "focused" or "appropriate" medical record. Dr. Rose suggested new language for medical history/ physical exam provision. Committee adopted Dr. Rose's suggestion which is to be added to line 28.

Lines 30-39 – Informed Consent section. Lines 33-34 mentioned as addressing new focus of legislation. Dr. Rose, Mendez, and Schwemmer mentioned changing term "therapies" to indicate we are talking about "non-medication therapies" and alternatives to opioids. Dr. Mendez commented on "risks and benefits" and asked about changing the language. Dr. Vila and Dr. Tejera point out that those conversations are very different for different practitioners. Tellechea

pointed out that legislature does seem to be pushing for some change in these conversations – trying to change status quo. Dr. Lopez comments on emergency and dental practice, and applicability of high risk of abuse to those practices when minimal medication is being offered. Dr. Rose proposed removing language from lines 34 to 39 as inappropriate to practitioners seeing a patient one time for acute pain.

Dr. Haridopolos asked about differences between current chronic pain rule and this draft. Tellechea commented language is not needed for acute pain as PDMP now exists.

Discussion on adding language suggesting the use of one physician and one pharmacy if possible. Mr. Flynn indicated some legal concerns with restricting access.

Reminder for point of discussion: C2s are the only ones limited to the 3/7 day prescribing limits.

Conversations with patients: discussions are different with surgeons in comparison to family physicians. What should it look like? What are those standards?

Dr. Tejera and Dr. Mendez both discussed informed consent and what it needs to look like in the future.

David Flynn pointed out that current law does not require that consent be written.

Ed Tellechea pointed out that economic impact should be considered.

Dr. Schwemmer suggested adding line about practicing setting to this section as well. Tellechea suggested adding that language at top to modify all sections. That was unanimously agreed to.

Periodic review – lines 40 to 44.

Discussion about how this applies to emergency room physicians and people who keep returning to emergency room.

Dr. Fatmi suggested removing words “of the patient” from line 40 to solve issue. All agreed. Tellechea suggested replacing that with “presented” all agreed.

Consultation – lines 45 through 50 – Dr. Tejera chairing for this section.

Tellechea pointed out need to wordsmith this section. Discussion ensued about “living arrangements. Gustafson recommend amending line 47 to “misusing or diverting their medication” Also that sentence could be moved to line 34 in informed consent section, right after common side effects. Jefferey Mesaros commented on need to consider other members of household and suggested changing the language to “misuse or diversion of their medication”. Everyone agreed.

Medical Records – lines 51 through lines 69

Dr. Rose comment on line 53 having the word “focused” all agreed to remove. Tellechea point out lines 68 and 69 would need to be modified by each Board to correctly refer to their own rules. Discussion of PDMP or PDMS and which is the appropriate term. Term should be PDMP and appropriate editing will occur.

Compliance with Laws and Rules – Lines 70 – 72

Dr. Vila suggests restating current law on acute pain prescribing here. Discussion pointed out that listing all applicable laws would be impossible and that updating timely would be difficult. Dr. Vila agreed that was not the desired outcome, he just wanted to give prescribers one place to read all the new provisions.

Break at 2:45 – to reconvene at 3:05

Public comments – beginning at 3:05

Dr. Steven Leedy – Florida Hospice and Palliative Care Association.

Wants hospice doctors of hospice patients to be exempted from PDMP check requirements, particularly when adjusting medications repeatedly in a short period when trying to find the right dosage and medication. States that this regulatory burden has no real value and creates millions of unneeded medical records. Tellechea pointed out that the Boards have no authority to waive a statutory requirement and providing an exception will require legislative action.

> Dr. Vila suggests taking all types of public comments/ suggestions and consider meeting again to suggest changes to the law considering impact to all professions, then sending a letter to the DOH Legislature Affairs Office asking for the recommended/ needed changes to be part of glitch bill.

Chris Newland – Medical Specialty Societies.

Thanked Committee for recognizing differences between acute and chronic pain and approved of the changes already made by the committee as covering their concerns, except for one typo.

Mary Thomas, FMA –

Clarification asked for on the following items:

Do they have to see the patient before issuing an additional prescription after the three days?

> Discussion about need to actively monitor patients occurred. Tellechea mentioned needing to implement the law as written – if committee wants to require an in-person appointment for each prescription, that requirement will need to be promulgated as a rule. Economic impact of such a rule will require it to go before the legislature for ratification. Conclusion was that current rule draft on reevaluating is the best way to address this issue.

What about issuing multiple prescriptions at the same time for the same drug?

> Committee thinks that would circumvent the purpose of the bill and its intent. Committee also points out that standard of care and prudence would indicate that patient should be revaluated if additional opioids are needed.

When prescriber is using PDMP and relying on that info to make medical decisions, can they show it to the patient and can they put it in the medical record?

> Tellechea points out problems with putting it in the medical record. Statues does not specifically address if a patient can see their record. However, PDMP questions need to be directed to DOH, not this committee.

Also, commented on limitation of only issuing 3-day prescriptions if PDMP is down.

Finally, what to do based on what you see in the PDMP?

Bollimpolli

Acute pain for someone who also has chronic pain – how should prescription should be handled?

Dr. Mike Lorenzo- Envision Group

How do we need to handle opioids administered in a hospital setting? Do we have to check PDMP each time we are administering medicine? Understand it applies for medications/prescription given when patient is leaving. What about any limitation on how many days of medication can be administered in hospital?

Bob Fierada – Pharmacist

Title of rule and line 21 should be Standard for the Prescribing of Controlled Substances – Committee agreed and draft will be changed.

Also, what about how to handle prescription where "acute pain" was not written? Can you call Dr. and get clarification and add that to the prescription after documenting the call?

Brief discussion on prescription pads and needed notations?

Dr. Jesse Lipnick – Florida Society of Interventional Pain Medicine.

What about subacute pain? Pain of more than 3-7 days, but less than 90 days.

> Board believes that subacute pain can be listed as "non-acute" pain (chronic pain).

What about pharmacist and insurance companies that are refusing prescriptions based on misinterpretation of HB 21 and guidelines of CDC?

Lisa Miller – Insurance Carrier Consultants

Offered to help and bring insurance companies to the table. Offered to look at covering alternative therapies.

Dennis Dansky – Tampa General

Who is responsible for checking PDMP – resident or attending? Does it matter if resident has own PDMP number?

Do we have to document the injury severity score if it is greater than 9?

> Yes – document, document, document.

What about prescriptions for opioid withdraw? Outpatient methadone?

Write non-acute pain.

What about electronic prescription requirements being implemented by certain pharmacies?

What about the counteragent prescription? What happens when prescription is not filled, what if insurance won't pay for it?

Dr. Schwemmer – Line 32

Should incompetent be replaced with "lacks capacity"?

Guardian Pharmacy Rep – Long term pharmacy

Long term care facilities, how should patients be treated under the law in these non-ambulatory, non-acute facilities?

Ed Tellechea – we will need another meeting to review revised rule draft.

Dr. Vila believes this should be an in-person meeting.

David Flynn – please send PDMP questions to PDMP office in DOH.

Dr. Lopez – telephone conference may be a better approach if we are happy with the draft.

Tellechea – either meeting type would work, though public comment is easier in person.

Dr. Block – Acute pain rule was addressed today, what about non-acute pain? Tellechea points out that this committee is only addressing acute pain.

Chris King and Dr. Tejera – questions about who can provide the required CE course.

Meeting adjourned at 4:44 pm