

**Minutes
Board of Medicine
Quality Assurance Committee Meeting**

**Tampa Airport Marriott
Tampa International Airport
Tampa, FL
(813) 879-5151**

August 12, 2005

11:18 a.m. Roll Call

Members Present:

Raghavendra Vijayanagar, M.D., Chair
H. Frank Farmer, M.D.
Manuel Coto, M.D.

Members Not Present:

Terence McCoy, M.D.

Court Reporter:

Lorene Harris
Letha Wheeler & Associates
1250 Mt. Homer Road
Suite 9
Eustis, FL 32726
(352) 589-8852

Staff Present:

Larry G. McPherson, Jr., J.D., Executive Director
Ed Tellechea, Board Counsel
Melinda Gray, Regulatory Supervisor/Consultant

Tab 1 - EMG Needle Insertion

This matter was tabled from the June 4, 2005, Quality Assurance Committee Meeting. The Committee requested Board staff to invite interested parties to participate in the Committee's discussion to determine whether it is appropriate for non-physicians to perform EMG needle insertion so that the Committee could respond to correspondence received from Gina Hyland, Legal Research. The Committee reviewed correspondence and heard testimony from Dr. Jairo Parada with the Florida Society of Physical Medicine and Rehabilitation. The Committee also reviewed Rule 64B17-6.003, F.A.C., which outlines the minimum qualifications needed for physical therapist to perform electromyography.

Action taken: The Committee noted that s.486.021 provides for electromyography to be performed by physical therapists pursuant to a rule of the Board of Medicine. Rule 64B17-6.003, Florida Administrative Code concerning the performance of electromyography was enacted at a time when physical therapy was a part of the Board of Medicine.

In addition, the Committee determined that EMG needle insertion should be performed by physicians, osteopathic physicians, physician assistants under indirect supervision and advanced registered nurse practitioners under protocols. The Committee directed the Board Office to write

a letter to the Board of Physical Therapy requesting the withdrawal of Rule 64B17-6.003, Florida Administrative Code, because physical therapy is no longer under the Board of Medicine and the statute provides that the rule be a rule of the Board of Medicine.

Transcript ordered.

Tab 2 – Neurodiagnostic Technicians Performing Evoked Potential Monitoring

The Committee reviewed an e-mail from Michele Ryder wanting to know if performing neurodiagnostic monitoring intra-operatively requires a licensed technician and reviewed licensure requirements from various organizations and Rule 64B-2.004, Florida Administrative Code, Somatosensory Evoke Potentials: General Principles. Ms. Ryder indicated in her e-mail that it appears that Florida does not offer licensure in this field.

It is the consensus of the Committee that those individuals who perform intra-operatively in Florida are not required to be licensed in Florida.

After the Committee discussed this matter, the Committee requested that the Board prepare a response indicating that she is correct that Florida does not license technicians who perform neurodiagnostic monitoring intra-operatively.

Action Taken: The Committee directed Board staff to respond to Ms. Ryder's email by stating that she is correct that Florida does not license technicians who perform neurodiagnostic monitoring intra-operatively.

Transcript ordered.

Tab 3 – Lifestyle Drugs

At the February 2005 Board of Medicine Meeting, Mr. Beebe expressed concerns about physicians being disciplined for inappropriately prescribing lifestyle drugs to patients. A motion was made to refer the issue of prescribing lifestyle drugs to the Quality Assurance Committee for consideration. The Board asked the Committee to determine if it would be helpful to develop a list of lifestyle drugs that would be used to restrict physicians from prescribing the drugs on the list if the physician has been disciplined for inappropriately prescribing certain drugs to patients.

Mr. McPherson explained to the Committee that at the February Board Meeting, there was a case involving Internet prescribing of Viagra, Levitra, and Vioxx and that Mr. Beebe thought that it would be appropriate to identify what drugs commonly fit into the group of lifestyle drugs. Mr. Beebe thought that some physicians may be tempted to prescribe under the inappropriate belief that they are not required to conduct a physical examination or any other type of medical work up on the patients before prescribing what is commonly known as lifestyle drugs.

Mr. McPherson continued to explain the reasons Mr. Beebe thought that it would be appropriate to identify lifestyle drugs:

- It would help the Board or the Probationer's Committee when reviewing future cases involving lifestyle drugs.
- It may help limit or restrict the physician's ability to prescribe drugs in certain areas.
- Should there be a Formulary.
- Should there be a list of drugs that the physician should not be prescribing or monitored.

Dr. Vijayanagar stated that Viagra, Levitra and other drugs are serious, but there are herbal drugs that individuals can obtain on their own and take without the knowledge of their physician.

Dr. Farmer asked the Committee if the Board has ever classified a list of drugs without naming them at the time of prohibiting the physician from prescribing such drugs.

Dr. Vijayanagar stated that there is a list of "legend" drugs.

The Committee determined that it would be hard to establish a list of lifestyle drugs.

Mr. McPherson explained that the question referred to them is "would it be helpful to the Board to have a list of drugs that is commonly referred to as lifestyle drugs so that when the Board faces physicians who are being disciplined for prescribing a drug that the Final Order would restrict them from that particular drug as well as other drugs that is classified as a "lifestyle" drug."

Dr. Farmer stated that it would not be helpful to have a list of lifestyle drugs.

Dr. Vijayanagar stated that the Committee has a list of legend drugs and for physicians prescribing drugs from the Internet what drugs are considered non-legend drugs.

Mr. Tellechea stated that if the Board decided that the physician is not allowed to prescribe lifestyle drugs, how would the physician know what lifestyle drugs are without identifying the drugs in the Final Order and/or the Board would need to create a rule identifying "lifestyle" drugs.

Dr. Farmer made a motion that it would not be helpful for the Board to have a list of lifestyle drugs.

The motion was seconded and carried unanimously.

Action Taken: After discussion and concerns with determining what would be included on such a list, the Committee determined that it would not be helpful to establish a list of lifestyle drugs that a physician could not prescribe.

Other Items of Discussion - Lasers

Mr. McPherson explained to the Committee that he received several e-mails requesting clarification on the scope of practice regarding whether an ARNP and/or a PA can perform laser hair removal, skin resurfacing, skin rejuvenation, under direct or indirect supervision.

Mr. Tellechea explained to the Committee that an ARNP works under a protocol with a physician and that it is between the physician and the ARNP to decide, under protocol, what type of supervision is required. The Board of Medicine can not dictate what level of supervision should be under that protocol.

Mr. McPherson asked if the injection of Botox constitutes the practice of medicine and that the practice of medicine may be performed by medical doctors, osteopathic physicians, advanced registered nurses under protocol, and physician assistants under indirect supervision. In addition, Florida Statute provides that a physician may not delegate a medical procedure to someone who has not been authorized by training or experience or licensure.

Mr. McPherson further stated that you could not delegate to a physician assistant the injection of Botox if that physician assistant has not been trained to perform that procedure.

The Committee agreed.

Mr. McPherson asked another question about whether anyone other than a physician can use a laser for skin resurfacing, skin rejuvenation. Mr. McPherson stated that laser hair removal may be performed by an electrologist under the direct supervision of a physician. He asked if there is any statement or rule regarding whether a registered nurse or physician assistant could use a laser for skin resurfacing.

Mr. Tellechea explained that the Board of Medicine does not have the authority to address questions regarding the scope of practice of a registered nurse. However, the Board may say that skin resurfacing and skin rejuvenation is the practice of medicine and that the only individuals who can practice medicine are medical doctors, osteopathic physicians, physician assistants under indirect supervision, and advanced registered nurses under protocol.

Dr. Farmer stated that he has received several telephone calls about individuals who are not properly licensed performing laser hair removal, etc. Dr. Farmer directed them to file a complaint with the Department of Health.

Mr. Tellechea stated that there are unlicensed individuals performing these procedures in salons, massage establishments and all across the state.

Dr. Vijayanagar stated that these unlicensed individuals need to be reported.

Mr. McPherson restated that for skin resurfacing and that the use of a laser on a person for the purpose of treatment or change of physical condition constitutes the practice of medicine. The practice of medicine may be performed by physicians, osteopathic physicians, physician assistants, and advanced registered nurses and that the physician and osteopathic physician could not delegate a procedure to somebody who is not qualified to do so by licensure, training or experience. Electrologists may perform laser hair removal under direct supervision, not skin resurfacing. The physician assistant may perform under indirect supervision and advanced registered nurses under protocol.

Action Taken: The Committee restated their position that an MD, a Physician Assistant as delegated by the supervising physician and an ARNP under protocol, may perform laser hair removal, skin resurfacing, skin rejuvenation, injection of botox and collagen provided that the M.D. and the physician extender are qualified by education, training and licensure to do so. Electrologists may perform laser hair removal under the direct supervision and responsibility of a physician.

The meeting adjourned at 12:25 p.m.