



Approved by the Board on April 7, 2022.

OREGON MEDICAL BOARD
Meeting of the HB 3036 Workgroup • February 8, 2022 • Held via Video Conference

PUBLIC SESSION

Welcome and Review of Workgroup Minutes

CRAMER

Mr. Erin Cramer, PA-C, called the meeting to order at 5:03^{PM}.

A quorum was present, consisting of the following members:

Erin Cramer, PA-C, Stayton, Chair

Paul Krull, MBA, SPO Representative

Patti Louie, PhD, Public Member, Portland

Kathleen J. Thompson, PA

Mark Bonanno, JD, OR Medical Association

Dan Sengenberger, DO, OR Academy of Family Physicians

Leza Hayes, PA, OR Society of Physician Assistants

Christopher Strear, MD, Supervising Physician

James Jackman, DO, Supervising Physician

Absent:

Amanda Miller, PA was absent by prior notice.

Staff present:

Nicole Krishnaswami, JD, Executive Director

Gretchen Kingham, Executive Assistant

Elizabeth Ross, JD, Legislative & Policy Analyst

Chair Cramer welcomed Workgroup members and members of the public to the second meeting of the HB 3036 Rules Workgroup. He discussed ground rules for the meeting, provided an overview of the agenda, and invited members of the public to participate by providing comment during the public comment period.

There was no discussion regarding the January 19, 2022 meeting minutes.

Rulemaking Review

STAFF

Staff noted that the following assumptions were made in the development of these rules, which should cover all circumstances under which a physician assistant provides care to patients located in Oregon:

- Organizational model: employee, partnership, self-employed, solo practice, etc.
- Geographic location: rural and urban
- Settings: hospital, office, facility, clinic, medical spa, etc.
- Specialties: primary care, surgery, dermatology, etc.

847-050-0005 Preamble

There was no discussion regarding 847-050-0005.

847-050-0010 Definitions

The workgroup questioned the interpretation of the Community Standard definition and noted that it may not be consistent with the statute language in 677.095 and 677.265.

847-050-0023 Limited License, Pending Examination

There was no discussion regarding 847-050-0023.

847-050-0027 Approval of Supervising Physician.

There was no discussion regarding 847-050-0027.

847-050-0029 Locum Tenens Assignments

Workgroup members researched how this rule might potentially create a barrier for billing. Staff clarified that a fully active licensee could enter into a locum tenens assignment without changing their license status. The work questioned whether this language would require a PA to have a separate collaborative agreement for each employer.

847-050-0035 Grounds for Discipline

There was no discussion regarding 847-050-0035.

847-050-0036 Supervising Physician Organization

There was no discussion regarding 847-050-0036.

847-050-0037 Supervision

There was no discussion regarding 847-050-0037.

847-050-0038 Agents

There was no discussion regarding 847-050-0038.

847-050-0040 Method of Performance

There was no discussion regarding 847-050-0040.

847-050-0041 Prescribing and Dispensing Privileges

The workgroup questioned the language in section (4) in regards to federal requirements. Workgroup members noted there are times when a PA may prescribe but not dispense, therefore the use of "and" in section (4) could pose an issue. Additionally, it was noted that the OSPA does not support having the collaboration agreement state a PA can prescribe buprenorphine.

847-050-0042 Registration

There was no discussion regarding 847-050-0042.

847-050-0043 Inactive Registration and Re-Entry to Practice

Workgroup members questioned whether or not a PA could mentor a PA in this situation and asked what the definition of a "mentoring physician" is. The workgroup noted that re-entry for a PA should parallel the rule language in 847-020-0183 and considered separating 12-month requirements from 24-month requirement.

847-050-0046 Emeritus Status

There was no discussion regarding 847-050-0046.

847-050-0050 Termination of Supervision

There was no discussion regarding 847-050-0050.

847-050-0055 Responsibility for Patient Care

The workgroup questioned whether “employer” could be added to parties’ responsible for patient care. Staff clarified that the Board only has jurisdiction over licensees. Workgroup members discussed rewording the rule in manner that would equitably incorporate responsibility to all parties involved in providing care. Staff made a clarification that 847-050-0055 should also depict the responsibility of the physician entering into a collaboration agreement.

847-050-0080 Collaboration

There was no discussion regarding 847-050-0080.

847-050-0082 Collaboration Agreements

Workgroup members questioned the statutory requirement of section (2)(d) and (2)(e).

The workgroup discussed the 2,000 hours of post-graduate clinical experience requirement in section (2)(f), noting that the PA would be responsible for tracking the hours and the physician/employer entering into the collaboration agreement would be responsible for verifying the hours. Workgroup members questioned how the Board would determine the hours had been met if a Board review were required. Workgroup members also questioned the lack of required hours to collaborate per month, prior to a PA having 2,000 hours of post-graduate clinical experience.

The workgroup discussed section (2)(f)(E), and use of the word “may.” Some workgroup members expressed concern that “may” is not a requirement, noting that as written, a PA could still switch specialties with no proven competence, whereas a physician, oftentimes, cannot switch specialties without completing a new residency program. Other workgroup members noted this would be covered in an employment agreement and it is not necessary to be in rule. Staff clarified that not all PAs are/will be in an employment situation that requires an employment agreement, such as PAs owning their own clinic. The workgroup questioned the phrase “area of practice” and recommended “specialty” or “emphasis of medical practice” as alternative language.

Workgroup members discussed section (5), noting that if the style of collaboration is going to change after the 2,000 hours of post-graduate clinical experience is met, the collaboration would need to be amended. Staff made a clarification that the intent of section (5) is to provide an opportunity for the PA and the specified collaborating physician, from the plan, to discuss past and future collaboration. Workgroup members noted this would ensure the collaborators are following the most current collaboration agreement, at all times.

The workgroup questioned the physical location requirement in section (7). Staff made a clarification that the intent is for the Board to have access in a situation requiring review and that all parties involved know what the agreement is.

Workgroup members discussed the need for section (8) and concluded that it is necessary.

The workgroup questioned whether a change to a collaboration agreement could be an amendment/revision or if it had to become a new collaboration agreement. Staff will create a sample collaboration agreement.

The workgroup questioned section (10). Staff clarified the \$195 fine necessity, in order to address administrative issues without conducting a full investigation.

Telemedicine Active Status**STAFF**

Telemedicine Active Status: physicians and physician assistants who practice outside of Oregon and render medical treatment to patients in Oregon via electronic means. Current rules states that a physician with Telemedicine Active Status may not act as a supervising physician or employ a PA. Statute and rules regarding telemedicine licensing will be further discussed in the future.

Communicating HB 3036 Changes**STAFF**

Staff discussed communicating HB 3036 implementation:

- OMB quarterly newsletter
- OMB website, particularly the webpage on HB 3036 Changes
- FAQs
- Direct email to PAs and current supervising physicians

Additionally, the Workgroup discussed educating the public on the new roles of a PA. Staff noted that within current resources, the Board could develop a central webpage with detailed information on each license type. Workgroup members noted the public may not have the insight to check the Board website.

Public Comment**STAFF**

Tom Holt, The Holt Company, on behalf of ZoomCare, noted his appreciation for the discussion regarding responsibility through collaboration, he also suggested changing the language in 847-050-0082(7) to reflect that a collaboration agreement “must be made available,” and he noted that telehealth will be a larger conversation to be addressed in future statute and rule.

Jessica Wright, PA-C, questioned whether 847-050-0040(11)(12) were moved from another section, she noted that she made the suggestion for 847-050-0082(8) in order to protect the PA, and she noted her support for separate collaborative agreements for separate employers.

Juliana Bernstein, PA-C, noted her appreciation to the workgroup and spoke to 847-050-0082, noting that she would like the workgroup to define a minimum standard regarding the first 2,000 hours of practice in order to alleviate confusion. She also questioned 847-050-0055, asking who the burden of collaboration falls to if an employer signs the collaboration agreement.

Ben Johnson, PA-C, noted that if a PA has a collaborating physician who is willing to collaborate in multiple locations, doing similar work, there really is no need for the PA to have additional agreements with additional physicians.

The following members of the public were present, but did not make comment:

- Ellie Boggs
- Jackie Fabrick, Program Manager, Government Relations, Providence Health & Services
- Melody Flannery, PA-C
- Katie Harris, MPH, Oregon Association of Hospitals and Health Systems
- Nick Haskins, Mahonia Public Affairs
- Curtis Hawkinson, PA-C, Site Medical Director, Skyline Village
- Brian Mills, PA, President of OSPA
- Janette Remling, PA-C
- Taylor Sarman, Mahonia Public Affairs
- Dan Stein, PA-C
- David Walls, Director of Osteopathic Physicians and Surgeons of Oregon

Staff noted that the workgroup will have one final discussion regarding the draft rules, then the rules will be presented to the Administrative Committee at the March 9th meeting, and then to the full Board at the April meeting. Once the full Board directs staff to begin rulemaking, the draft rules will become available for public comment.

The next meeting of the House Bill 3036 Rules Workgroup will be Tuesday, February 15, 2022.

Meeting adjourned at 6:45^{PM}.