



Approved by the Board on April 7, 2022.

**OREGON MEDICAL BOARD**  
**Meeting of the HB 3036 Workgroup • January 19, 2022 • Held via Zoom**

**PUBLIC SESSION**

**Welcome and Review of Workgroup Minutes**

**CRAMER**

Mr. Erin Cramer, PA-C, called the meeting to order at 5:05<sup>PM</sup>.

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

Amanda Miller, 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:

Kathleen J. Thompson, 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 first meeting of the OMB’s 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.

Additionally, the Chair briefly reviewed the workgroup Charter, role of the workgroup in rulemaking, what to expect as a workgroup member during the meeting, and what to expect as a member of the public during the meeting.

**Rulemaking Process Overview**

**STAFF**

Elizabeth Ross, Oregon Medical Board Legislative and Policy Analyst, reviewed the HB 3036 Rulemaking Timeline and the State of Oregon rulemaking process.

**HB 3036 Sections 10 and 11A Overview**

**STAFF**

Ms. Ross reviewed excerpts from HB 3036 sections 10, 11A, and 20.

**847-050-0005 Preamble**

There was no discussion regarding 847-050-0005.

**847-050-0010 Definitions**

The Workgroup discussed that the term “employer” is not included in the definition of “collaboration agreement,” but also noted that it is not needed. Additionally, they discussed adding a definition for the term “Community Standard.”

**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**

The Workgroup discussed possible billing concerns due to section (3).

Workgroup members noted that the term “supervising physician” was in the rules. Staff will double check all uses of the term throughout the document.

**847-050-0035 Grounds for Discipline**

Workgroup members questioned the word “task” in section (2)(d). Staff welcomed suggested language or using the language “based on the physician assistant’s education, training, and experience.” The Workgroup also questioned the use of “supervision” in the last sentence of section (2)(d) and suggested using “preformed medical services.” Cumulative knowledge, no matter the collaborative agreement, was also discussed. Staff made a clarification regarding supervision/collaborative timelines language in section (2)(c).

**847-050-0036 Supervising Physician Organization**

Staff made a clarification regarding the removal of Supervising Physician Organizations in the future.

**847-050-0037 Supervision**

There was no discussion regarding 847-050-0037.

**847-050-0038 Agents**

There was no discussion regarding 847-050-0038.

Workgroup members questioned making the document gender neutral. Staff will review and revise with gender neutral pronouns.

**847-050-0040 Method of Performance**

Staff made a clarification regarding sections (10) and (11). Workgroup members verified that the header “Under a practice agreement or practice description” means the following rules only apply in the specific situation(s) outlined. Staff suggested changing the title of the section for clarity: “Method of Performance Under a Practice Agreement.”

**847-050-0041 Prescribing and Dispensing Privileges**

Staff made a clarification regarding section (1)(b). Workgroup members questioned where the qualification comes from in section (2). Staff suggested inserting the language “based on the physician assistant’s education, training, and experience.” The Workgroup also discussed that section (2) should mirror other licensees’ rules. Staff clarified that PAs are subject to the PDMP requirements and all OMB licensees must take required pain management CME. Workgroup members noted that the DEA provides the privileges noted in section (6)(a). Staff clarified that the phrase “except as provided in OAR 847-015-0050 for expedited partner therapy for sexually transmitted disease” in section (5) will only appear in this rule if OAR 847-015-0050 is adopted.

The Workgroup pointed out a formatting error, and staff will change “P.A.” to “PA” throughout the document.

#### 847-050-0042 Registration

There was no discussion regarding 847-050-0042.

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

Staff clarified that section (4)(d) applies to requirements for re-entry to practice, noting that all licensees become inactive after not practicing for 6 months and may require a re-entry plan.

The Workgroup pointed to an inconsistency with the use of Physicians/Podiatric Physicians. Staff will review the document for consistency.

#### 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.

Workgroup members questioned the implementation of these rules and communication to licensees and other interested parties. Staff noted the HB 3036 webpage on the OMB website, newsletter, FAQs, close relationships with other healthcare regulatory agencies, the call for additional public comment after the rules are prepared for public review, and a possible direct licensee email. Additionally, the Workgroup discussed educating the public on the new roles of a PA.

#### 847-050-0055 Responsibility for Patient Care

The Workgroup discussed situations where a PA is not an employee, and staff noted that they are working with the Department of Justice on this issue. Workgroup members noted that a PA is responsible for the care they provide in all situations but that does not negate some level of responsibility for patient care from all parties involved.

#### 847-050-0080 Collaboration

The Workgroup questioned the language “primary location of practice” as noted in section (2) and whether “present location” might be more useful than “primary location.” Additionally, workgroup members expressed concern for larger healthcare institutions that have multiple locations.

Staff provided clarification regarding the act of “collaboration” versus “collaboration agreements” and suggested the possibility of creating separate rules for collaboration and collaboration agreement.

Regarding section (5), the Workgroup questioned the need for certain requirements to be included in the collaboration agreement if they are included in an employment agreement. It was discussed that not all PAs have an employment agreement so the need does exist for certain requirements to be included in the collaboration agreement.

In section (5)(c), staff clarified that actual collaboration must happen with a physician or podiatric physician, and the employer would only ensure that the required collaboration is happening.

The Workgroup also questioned whether an employer may have one collaboration agreement with multiple PAs. They discussed that an agreement could encompass each of the potential roles, similar to privileging at a hospital. Workgroup members noted that the rule could allow for this type of collaboration agreement.

Staff clarified that the 2,000 hours of post-graduate clinical experience, specified in section (5)(f) does not refer to collaborative hours, but to the number of hours a licensee has actively practiced as a PA, in a clinical setting. Additionally, staff clarified that in section (5)(f)(A), the physician assistant, or physician, podiatric physician, or employer is responsible for tracking the hours, drawing specific attention to the use of the word “or.”

The Workgroup discussed section (5)(f) language “a plan for the minimum number of hours per month during which the physician assistant will collaborate” noting that “a plan” is quite broad. Several Workgroup members noted this to be of concern and may require more specificity.

Workgroup members questioned how an employer would absolutely know if a new hire PA had met the 2,000 hour requirement in (5)(f). The Workgroup discussed that the burden of proof would fall to the PA. Staff referenced the definition of “post-graduate clinical experience,” as indicated in section (5)(f)(B).

Staff asked the Workgroup if the phrase “will collaborate” should be better defined. The Workgroup discussed that both synchronous and asynchronous collaboration fits the need. Workgroup members also discussed that the collaboration occurring through the requirements of (5)(f) should be the same type of collaboration in (5)(c), which is required to be described in the collaboration agreement.

Additionally, Workgroup members questioned the 2,000 hours not being specialty-specific, noting that as written, a PA could switch specialties with no proven competence, whereas a physician, oftentimes, cannot switch specialties without completing a new residency program.

The Workgroup discussed section (5)(f) language “a specified” and agreed that “a” should be removed.

Workgroup members questioned the need for section (10) and whether it referenced collaboration agreements or the act of collaborating.

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| <b>Public Comment</b> | <b>STAFF</b> |
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Michelle Reina, MD, Emergency Medicine, ED Assistant Director at Asante, noted her appreciation for the work going into the rules and expressed her concerns on how a large hospital system would proceed with implementation. Additionally, Dr. Reina discussed posting signage on the roles of a PA, and other healthcare providers, in healthcare facilities.

Jessica Wright, PA, thanked the Workgroup and commented on 847-050-0035(2)(d), noting that all PAs need to receive a copy of their collaboration agreements. She also asked for clarification on 847-050-0080(4)(a), questioning if it is specifically referring to the collaboration agreement or collaboration in general.

Heather Tonga, PA, noted that implementation will require education to non-provider groups, like pharmacists, especially in rural areas and in small practices. Ms. Tonga also questioned the criteria for collaborative agreements and who will decide what is appropriate. She suggested that the workgroup could develop broad criteria that will keep everyone safe. She also asked for clarity regarding what experience will count toward the 2,000 hours.

James Knight III, MD, asked for clarification on the community standard of practice and asked whether PAs will be held to the standards of other PAs or if the community standard applied to a specialty, which may include physicians.

Ben Johnson, PA, thanked the Workgroup and noted he helped to initiate HB 3036. Mr. Johnson noted that the basic intent of the bill was to increase access to healthcare.

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

- Jacob Hauptman, PA
- Katie Harris, Oregon Association of Hospitals and Health Systems
- Curtis Hawkinson, PA, Site Medical Director, Skyline Village
- David Walls, Director of Osteopathic Physicians and Surgeons of Oregon
- Ruth Miles, Government Relations, Salem Health, Hospitals & Clinics
- Taylor Sarman, Mahonia Public Affairs
- Nick Haskins, Mahonia Public Affairs
- Michelle Reina, MD, Emergency Medicine, ED Assistant Director at Asante
- Brian Mills, PA, President of OSPA
- Elizabeth Edwards, Kaiser Permanente
- Juliana Bernstein, PA

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| <b>Planning for Future Discussion Topics and Next Meeting Date</b> | <b>CRAMER</b> |
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Staff will send a survey to Workgroup members to schedule the next meeting.

Meeting adjourned at 7:00<sub>PM</sub>