ADMINISTRATIVE AFFAIRS COMMITTEE
March 7, 2018
5 P.M.
BOARD OFFICE/WORKING DINNER
MINUTES - AAC

MEMBERS PRESENT:

Melissa Peng, PA-C, Chair
K. Dean Gubler, DO
Katherine Fisher, DO
James Lace, MD (via GoToMeeting)
Andrew Schink, DPM

STAFF PRESENT:

Kathleen Haley, JD, Executive Director
James Peck, MD, Emeritus Medical Director
Nicole Krishnaswami, JD, Legislative and Policy Analyst
Netia N. Miles, Licensing Manager
Meagan Provinsal, Licensing Assistant

GUESTS:

Trevor Beltz, Associate Director of Government Relations, Oregon Medical Association (5:27 p.m. – 6:26 p.m.)
Glenn Forister, PA-C, Oregon Health Science University (5:27 p.m. – 6:26 p.m.)
Elizabeth Remley, Oregon Society of Physician Assistants (5:27 p.m. – 6:26 p.m.)
Jon Tardiff, PA-C, Director at Large, Oregon Society of Physician Assistants (5:27 p.m. – 6:26 p.m.)

Meeting opened: 5:03 p.m.
Meeting adjourned: 7:07 p.m.

Pursuant to ORS 192.660(2)(f) and ORS 192.660(2)(L), the Administrative Affairs Committee of the Oregon Medical Board (OMB) may convene in Executive Session to consider information or records that are exempt by law from public inspection or information obtained as part of an investigation, including information received in confidence by the Board and Administrative Affairs, information of a personal nature the disclosure of which would constitute an invasion of privacy, and records which are otherwise confidential under Oregon law. The Administrative Affairs Committee will reconvene in Public Session prior to taking any final action. Members of the news media may remain in the room during the Executive Session, but are directed not to report on the specific information discussed during the Executive Session.
PUBLIC SESSION

TIME CERTAIN: 5 P.M.

1 Board Best Practices Results, Carol Brandt, Business Manager

In Carol Brandt’s absence Kathleen Haley, JD Executive Director, congratulated the Committee and Board on achieving 100% on the Board’s Best Practices survey. She noted that this information is translated through the Board’s Key Performance Measures, which is reported to the Governor and the Legislature.

RECOMMENDATION: Informational item only. Forward to the full Board for review.

2 2019/2021 Board Budget, Carol Brandt, Business Manager

In Carol Brandt’s absence, Kathleen Haley, JD, Executive Director updated the Committee regarding budget preparation for the 2019/2021 biennium. Some of the budget packages being proposed are additional funding for the Oregon Wellness Program, adding an additional public member, addressing issues of office security, and obtaining updated computer software.

RECOMMENDATION: Informational item only. Forward to the full Board for review.

EXEC SESSION – APPLICANT REVIEW

3 Exec Session ORS 192.502 (2)

RECOMMENDATION: The Committee recommended that the applicant be offered the opportunity to withdraw the reactivation application with a report to the Federation of State Medical Boards. If the applicant wishes to continue with the reactivation request, the Committee recommended certification by the National Commission on Certification of Physician Assistants. Due to the applicant’s length of time out of practice, a proposed re-entry plan will be required. Additionally, the Committee recommended issuing a civil penalty for the applicant’s failure to affirmatively answer personal history question number 14 on the application. Forward to the full Board for review.

4 Exec Session ORS 192.502 (2)

RECOMMENDATION: While the need for a proposed re-entry plan is required due to the applicant’s length of time out of practice, the Committee recommended an Executive Director and Medical Director interview with the applicant be held prior to the full Board meeting in April 2018. Forward to the full Board for review.
RECOMMENDATION: The Committee recommends offering the applicant the opportunity to withdraw the application with a report to the Federation of State Medical Boards. If the applicant wishes to continue with the licensure process, the file will be forwarded to the Investigative Committee for additional review. Forward to the full Board for review.

OREGON ADMINISTRATIVE RULES (OAR)

Please review the Fiscal Impact memo prior to conducting a First Review of rules.

Melissa Peng, PA-C, introduced OAR 847-050-0060, and noted receipt of previously submitted public comments. Feedback reflected current opposition to Section 2(c), which requires a Board-approved supervisor as either the acting supervisor for the preceptorship or as the medical director over the physician assistant education program.

After providing overview of the rule, Ms. Peng noted that during the previous committee meeting, there was discussion to remove Section 2(c) from the rule, as it previously required a Board-approved supervisor to act as a preceptor for each physician assistant student. However, after review by the Board in January 2018, it was decided that the medical director or supervisor of the physician assistant program should be Board-approved, as opposed to having each physician submit a test to become a board-approved preceptor for students.

Ms. Peng summarized the comments expressed from those opposed to the rule and noted that programs are concerned that the inclusion of Section 2(c) limits the availability of preceptors. While the Committee agreed that the intent of the rule was not to restrict the availability of preceptors, Dr. Schink stated that the test to become a supervising physician was not onerous. As a result, he recommended that the requirement to take the supervising physician examination remain in the rule to ensure that supervisors understand their responsibility.

RECOMMENDATION: Four of the five members of the Committee recommended removing Section 2(C) from the rule. Forward to the full Board for discussion.

DISCUSSION ITEMS

Ms. Peng presented the proposed matrix as a method to administratively review waiver requests for the monthly 8 hours of on-site supervision requirement. It was clarified that if a physician assistant didn’t meet the requirements of the matrix, the waiver request would then be forwarded to the Committee for review. It was noted that the matrix would be helpful in obtaining data regarding the number of requests for the waiver, which could be used in the future to present to legislature for a possible statutory change.
Workgroup member, George Koval, MD, former Board member, provided a historical perspective on the rule, to include amendments made over the years. He pointed out the impetus for the rule was to ensure familiarity with the requirements specific to a physician assistant’s practice. He stated that the matrix was designed to allow administrative approval, which could facilitate a waiver request to be granted in an expedited manner.

Dr. Gubler suggested adding an attestation to the matrix regarding the physician assistant’s moral character and ability to practice.

**RECOMMENDATION:** The Committee recommended approving the matrix with a check box for the supervising physician to attest to the physician assistant’s good moral character and ability to practice. Forward to the full Board for approval.

**PUBLIC SESSION – 10 MINUTES**

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After review of the two following agenda items pertaining to the physician assistant community, the floor was opened for public comment.

* Elizabeth Remley, Oregon Society of Physician Assistants (OSPA), stated that she felt the rules process didn’t allow for the Committee to have time to review the written public comments or hear the testimony provided prior to decisions being made. Ms. Peng reiterated that all comments had been reviewed by the Committee and pointed out that testimony has been allowed at each meeting. Ms. Remley continued by stating that she wanted to clarify that there is no advocacy to remove physician assistants from regulation of the Oregon Medical Board. She claims she heard statements made a few times during the meeting and wanted to clarify that this wasn’t the case. Ms. Remley restated OSPA’s position that OAR 847-050-0060(2)(c) should be removed, and she is pleased that the Committee is recommending such. She complimented the collaborative process concerning the 8 hour on-site supervision requirement. However, she wanted to state that the matrix is a temporary solution while the Board continues to consider alternatives for the existing rule.

*Jon Tardiff, PA, Oregon Society of Physician Assistants (OSPA), presented his credentials as Director at Large with OSPA. After clarifying that he only had three minutes to provide testimony for both physician assistant topics, he expressed disappointment in his belief that both he and the others in the room were not able to voice their concerns for each item. He reiterated that OSPA sees the matrix for waiver of the monthly 8 hour on-site supervision requirement as a first step in addressing the rule. He applauded the Board and Committee for creating the waiver. In regard to OAR 847-050-0060(2)(c) he questioned the need for it. He asserted that the two outstanding physician assistant schools rigorously vet preceptors, and he doesn’t feel that the Oregon Medical Board should regulate the process.

*Trevor Beltz, Oregon Medical Association, thanked the Committee for the ability to provide written comments and testimony. He echoed all of the comments previously provided and stated his concern that the proposed language isn’t consistent with what is required for medical students. He reiterated that they remain unclear as to what problem the Board is looking to resolve by adding the proposed requirements to the rule. He stated there is concern that the rule will make it difficult in finding preceptors, especially in the rural areas. Additionally, they feel that any additional barriers would create an undo gap in educational opportunities in the state of Oregon.
*Glen Forister, PA, Oregon Health Science University (OHSU), reiterated that Section 2(c) of the preceptor rule was unnecessary, as their program’s accrediting body has stringent requirements for those allowed to precept students. As a result, he requests that the Board remove Section 2(c) as he believes the language is ambiguous and doesn’t provide an understanding of the Board’s intent.

Nicole Krishnaswami, Legislative & Policy Analyst, provided two ideas for potential legislation. Amendment to ORS 676.345 would require biennial registration instead of annual registration in the program that limits professional liability for donated medical services. In addition, a proposed amendment to ORS 677.635 would add a third public member to the Board.

Dr. Gubler expressed his concern that the qualifications for a public member may be too restrictive, and asked if the Board’s proposal could include broader requirements. Kathleen Haley, JD, Executive Director, replied that his concern is being addressed in the bill.

Dr. Lace inquired if SB1540 applies to physicians regarding mandatory reporting of sexual activity between underage teens. Nicole Krishnaswami clarified that the initial intent of the bill was meant to address teachers’ responsibility to mandatorily report any underage sexual activity. There were conflicting definitions regarding the age of consent, which resulted in several changes made to the bill during legislation session. However, because a consensus was not reached, the bill was not passed. While the current statute is unclear, the Department of Justice has stated that at this time, underage sexual activity is not a mandatory report via a policy document from the Oregon Health Authority. As there is disagreement, it is more than likely the bill will come back for review at next legislative session.

**RECOMMENDATION:** The Committee recommended forwarding the two proposed amendments for legislation. Forward to the Board for discussion.

Dr. Gubler recommended the adoption of a statement of philosophy regarding the treatment of self or family. In either direction, he would like “family” to be described to include the definition of a relationship, as he stated that “family” could include close friends or those who are not blood relatives.

**RECOMMENDATION:** The Committee recommends issuing a statement of philosophy regarding treating and prescribing for self or family and friends. Forward to the full Board for discussion.
Dr. Lace provided the results from the Law Enforcement Data Systems (LEDS) pilot.

RECOMMENDATION: Due to the cost, time, expense, and limited positive hits, the Committee recommended conducting full background checks during initial licensure, not at the time of licensure renewal. Forward to the full Board for approval.

INFORMATIONAL ITEMS

Members of the Committee provided their experiences with the renewal process, in addition to feedback received from other licensees. The overwhelming response to the renewal process was positive and complimentary.

RECOMMENDATION: The Committee complimented Board staff on a successful and efficient renewal process. Informational item only. No action taken. Forward to the full Board for review.

Nicole Krishnaswami provided an update on the Common Credentialing Program and stated the Board will be involved in the final approval process.

RECOMMENDATION: Informational item only. No action taken. Forward to the full Board for review.

ADJOURN