FLORIDA | Board of Pharmacy

Legislative Committee

Meeting Minutes

October 3, 2017
Rosen Plaza Hotel
9700 International Drive
Orlando, FL 32819
Contact Hotel: 407-996-9700

Jeenu Philip, BPharm
Committee Chair

C. Erica White
Executive Director

Tuesday, October 3, 2017 at 9:00 AM

Call to Order - The meeting was called to order by the Committee Chair, Mr. Philip, at 11:29 a.m.

Roll Call - Those present during the meeting included the following:

Board Members

Jeenu Philip, BPharm, Chair
Goar Alvarez, PharmD
David Bisaillon
Debra Glass, BPharm
Michele Weizer, PharmD

Attorneys

Board Counsel:
David Flynn, Assistant Attorney General
Lawrence Harris, Assistant Attorney General

Board Staff:

C. Erica White, Executive Director
Irene Lake, Program Operations Administrator
Jessica Hollingsworth, Government Analyst II

1. **Presentation on "Pathways to Pharmacist Prescriptive Authority"**

   Discussion:

   Mr. Philip gave a PowerPoint presentation on "Pathways to Pharmacist Prescriptive Authority", which included information describing the differences between collaborative practice, standing orders, and statewide protocols. Described how these mechanisms have facilitated patient access to medications and service. Dr. Mikhael expressed his concern with Florida being behind other states with the amount of impact this has towards public safety and welfare.

2. **Discussion on Prescriptive Authority**

   Discussion:

   Mr. Philip pointed out that Wisconsin has language in their statute allowing a pharmacist to perform patient care service delegated by a physician. He asked if adding this language to section 465.003(13), FS would allow a pharmacist to prescribe. Mr. Flynn answered that both pharmacist and physician practice acts would need changes and that it would depend on the class of drugs. Mr. Philip asked if this change could provide opportunity for Rule 64B16-27.830, F.A.C. to be expanded. Mr. Flynn answered that it could and clarified that his issue with the status of the

current language is when the prescriptive authority is being delegated.

Mr. Phillip provided a second recommendation of creating a new statute under Chapter 465, FS, titled “Collaborative Practice Agreements”, which included the following suggested language:

- Collaboration may take place between a pharmacist and prescriber to perform any patient care service
- CPAs may be written between single or multiple pharmacists and prescribers
- CPAs may apply to single or multiple patients, or patient populations
- A pharmacist may initiate and modify drug therapy as authorized under a CPA by a practitioner.
- All prescriptions, including controlled substances as defined in Chapter 893, may be included in CPAs.
- CPAs should be maintained by the pharmacist and practitioner and be available upon request or inspection.

Dr. Alvarez requested clarification in this proposal being a choice between amending section 465.003(13), FS, or adding the new suggested language, to which Mr. Philip clarified that it was and further explained that he proposed an addition since it seems amending section 465.003(13), FS, will also require amendments to Chapter 456, FS and the physician practice act.

Mr. Flynn explained that because there is overlap between Medicine and Pharmacy, there is a piecemeal approach to the statutes. He stated that to change the legislation, specifying what the pharmacist can do with the physician needs to be known.

Dr. Daniel E. Buffington, from Tampa, FL, informed the committee that he was part of the development of the presentation Mr. Philip gave. Florida led the way with collaborative practice and has the most diverse language. He agreed with Mr. Flynn that physicians are not delegating surgical procedures to pharmacists; they are delegating within the domain and scope of knowledge of what pharmacists are licensed to do, which is medication knowledge, medication monitoring, and patient education. Based on this perspective, Dr. Buffington pointed out that Rule 64B16-27.830, FAC, already allows this, but uses “prescriber care plan” instead of “collaborative practice agreement”, in which he clarified that both terms have been used interchangeably in Florida. He suggested that the discussion should entail moving from patient-specific to a population-specific and moving from institutional protocols to institutional and community-wide protocols.

Discussion ensued regarding the definitions for patient-specific and population-specific.

Dr. Rivera requested clarification on whether the pharmacist or physician name would be designated as the prescriber if a pharmacist sees a patient who has not been to a physician first. Mr. Flynn answered that this is related to the question of who diagnosed and prescribed.

Susie Wise, a pharmacist from Orlando, informed the committee that when she practiced in Minnesota, the pharmacist had a protocol with a physician that allowed them to administer the test under the name of the pharmacist; based on a positive result they could prescribe under the protocol physician and dispense under the specific protocol. Ms. Wise added that the Minnesota Practice Act allows pharmacists to initiate, modify, and discontinue medication therapy under a collaborative practice with a physician.

Karen Sando, Clinical Associate Professor for Nova Southeastern University and Chair of Legal

and Regulatory Affairs Council for FSHP, added that under her CPA in Florida, she may initiate medication therapy for something such as diabetes, but the physician would sign the prescription. Cognitively, she is initiating the therapy, but the prescriptive authority is the physician.

Mr. Philip indicated that CPA are best designed for chronic disease care management and suggested shifting focus to the issuance of statewide protocols by the Department of Health for things such as contraceptives, nicotine, fluoride, etc. or amending section 465.186, FS. Mr. Philip asked how population-specific language can be added to the current rule and if not possible, how can it be done for statute. Mr. Flynn answered that it depends on the meaning of population-specific.

The meeting recessed at 12:38 p.m.
The meeting reconvened at 1:43 p.m.

Mr. Philip ended the agenda item on prescriptive authority with the conclusion that due to the discussion that took place, the committee will need to think further on how to move forward.

3. Telepharmacy

Discussion:

Mr. Philip opened the discussion explaining that telepharmacy is seen as a way to improve access to pharmacy and health care services by using technology to allow the practice of pharmacy without a pharmacist being onsite. Current statutory language does not allow the practice of pharmacy without a pharmacist onsite. The concept would be to create a remote dispensing site pharmacy. This would involve amending the definition of Pharmacy under section 465.003, FS, to include a remote dispensing site pharmacy. Mr. Philip requested feedback on the suggested language.

Dr. Alvarez shared concern about the addition to (11)(b). Mr. Phillip responded that (11)(b) requires a pharmacist to be present and on duty. A pharmacy is considered closed if a pharmacist is not present. A remote dispensing site pharmacy would not have pharmacist. Dr. Alvarez clarified his question asking if dispensing will continue to occur if a pharmacist is not present, virtual or otherwise. Mr. Philip responded that in these scenarios there would technicians working that have to be supervised electronically.

Dr. Weizer asked what determines who qualifies for a remote site vs. a non-remote site. This seems to create a preferred, unequal status since the standards do not seem the same. Mr. Philip explained that this is legislative language to create the new permit-type and the board would write rules to regulate these permits. Remote locations would be areas that have difficulty from the patient access standpoint. Other states have language that usually provide that no other pharmacy is available within a certain number of miles.

Dr. Mesaros expressed that some type of controversy comes up when there are mileage restrictions or requirements. Mr. Philip indicated these would be addressed in rule discussions. Mr. Philip clarified that the overall concept would be geared towards under-served areas and they would have to decide what those under-served areas are.

Michael Jackson, Executive Vice-President and CEO of the Florida Pharmacy Association, pointed out that the terms “telepharmacy” and “remote dispensing” should not be intertwined. He

clarified that telepharmacy refers to clinical professional services that a pharmacist can provide and remote dispensing refers to how technicians are supervised, managed, and administered. Mr. Jackson also stated that FPA believes some issues related to access to pharmacist services in under-served areas are aggravated by network-closures occurring. They understand the growth of technology, but also recognize there needs to be a way for pharmacists to have access to their pharmacist's healthcare provider. Telepharmacy should be used as a tool to help support the services of what a pharmacist is providing on a local level. FPA cannot agree with the concept of remote supervision of pharmacy technicians.

Kathy Vieson, from Tampa, FL, agreed with Mr. Jackson that the terms "telepharmacy" or "telehealth" and "remote dispensing" are different. Using them together could be detrimental due to pharmacists not being available to patients.

Mr. Philip explained that remote dispensing would be a permit type, which would allow telepharmacy services to occur. He suggested that language could be added, stating pharmaceutical services must be available at these locations. Mr. Bisaillon asked if Mr. Philip envisions a pharmacist being available during certain windows of time, to which Mr. Philip confirmed.

Dr. Alvarez expressed concern with potential safety issues of a remote dispensing site, pointing out the language allowing a prescription department manager to manage more than one site. Dr. Weizer expressed concern with ratios in relation to the remote dispensing sites when it comes to supervising through cameras. She believes there should be very strict supervision. She stated that she felt more comfortable with at least one technician being certified. Mr. Flynn pointed out that all issues may not get sorted out in this meeting; that it was just placed on the agenda to see if the committee agrees with moving forward in proposing changes.

Mr. Philip asked if there is a bill proposed around telepharmacy. Mr. Jackson answered that there is, which has a sponsor, and further stated that conversations will be had about the concerns and issues around telepharmacy. Mr. Jackson clarified that there is a telehealth bill which was filed by Senator Bean, and a remote dispensing bill, which will be filed by Senator Broxson.

Mr. Bisaillon asked Mr. Jackson when these bills are set to be heard, which would clarify the sense of urgency to the committee. Mr. Jackson answered that the 2018 legislative session begins in January instead of March, meaning these bills may have a bill number earlier than usual.

Dr. Weizer reminded the committee that there are two different bills regarding telehealth and remote dispensing, and expressed to Ms. White that the board is interested in updates for both bills.

A motion was made by Mr. Philip to move forward with the suggested language to section 465.021, FS with the amendment of "one or more" to "one" under section 465.021(1), FS, pending legislative changes. Motion passed unanimously. Mr. Philip amended his motion to include language that the Board of Pharmacy shall determine the appropriate number of pharmacy department managers or consultant pharmacists that will serve as prescription department managers. Motion passed unanimously.

4. Emergency Management:

Discussion:

Mr. Philip requested clarification on section 252.926, FS, to which Mr. Flynn stated that it would be more appropriate for the Department of Health General Counsel to answer.

Dr. Mesaros reminded the board what the Rules Committee discussed regarding emergency management.

5. Old Business/New Business

None.

6. Public Comment

None.

7. Adjournment

The meeting adjourned at 2:48 p.m.