



Ohio Board of Nursing

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Committee on Prescriptive Governance (CPG)

October 16, 2017, 10:00 a.m.

Members Attending: Sherri Sievers, Chair, DNP, APRN-CNP, Chair; Kristine A. Scordo, PhD, APRN-CNP; Richard Edgin, MD; Katherine Clark, DO; Barbara Douglas, APRN-CRNA

Members Absent: Richard Bakker, MD, PhD; Megan Keller, PharmD, R.Ph

Board Staff Attending: Lisa Emrich; Anita DiPasquale; Chantelle Coles-Neal

Guests Attending: Keeley Harding, APRN; Michele Staton, Byers, Minton, & Associates

Call to Order

Sherri Sievers, Chair, noted a quorum was present and called the meeting to order at 10:01 a.m. She welcomed those in attendance, and asked the CPG members to introduce themselves.

Review/Approval of May 15, 2017 Meeting Minutes

Kristine Scordo moved to approve the minutes as submitted, seconded by Richard Edgin. The motion passed.

Rules: OAC Chapters 4723-8; 4723-9; and 4723-14 and Acute Pain Prescribing

Chair S. Sievers asked Lisa Emrich to provide an update on the proposed revised rules. L. Emrich noted that the Board values comments regarding proposed rule revisions from all Board committees and advisory groups and will continue to seek comments from the CPG, although HB 216 revised the charge of the CPG.

L. Emrich summarized the proposed revisions to Chapters 4723-8, Advanced Practice Registered Nurse Certification and Practice; 4723-9, Prescriptive Authority; and 4723-14, Continuing Education, and noted the revisions are primarily based on HB 216. In addition, changes were made to the standards of prescribing related to the prescriber patient relationship, requested by the Ohio Association of Advanced Practice Nurses. The rules were filed with the Joint Committee on Agency Rule Review on October 12, 2017.

L. Emrich provided an update about the prescribing provisions for acute pain in Rule 4723-9-10, OAC, as proposed after the May 2017 CPG meeting. In May, when the CPG reviewed Rule 4723-9-10, the rule, as well as the rules of the Medical and Dental Boards, all limited prescribers to a 30 MED per day average.

After the CPG meeting, the Medical Board changed its proposed rule to allow the "treating physician" to exceed the 30 MED per day average for patients whose acute pain is a result of crushing bone and tissue injuries, major orthopedic surgery, severe burns, and amputations. The exception was included with the requirement that the treating physician be held "singularly accountable" for the decision to exceed the 30 MED per day average. It was noted that the purpose of the rules, as discussed with the Governor's Opiate Task Force, is to address the opioid epidemic, reduce the number of opioids in the community, and hold the physician ultimately responsible for prescribing if this exemption is used.

All of the boards' acute pain rules became effective on August 31, 2017. After the effective date, the Nursing Board learned the Medical Board was interpreting its rule to apply to physician assistants

(PAs). When the Board confirmed the exception applied to PAs, the Board believed that if it did not propose to revise the rule, APRN practice would be restricted and patient care would be negatively impacted. Therefore, the Nursing Board immediately contacted the governmental stakeholders to seek agreement that the same exception would apply to APRNs. Agreement was reached the evening of September 12, 2017, prior to the 8:30 a.m. September 13, 2017 Board meeting. At the Board meeting, the Board members reviewed and approved the proposed change and agreed to make the exception effective as soon as possible, January 2018.

L. Emrich explained the proposed Nursing Board rule is an expansion of practice for APRNs, however the rule cannot contravene the language of the Medical Board rule. The Nursing Board rule includes the language of treating physician and singularly accountable, because it is the terminology used in the Medical Board rule. The Nursing Board rule language is also based on the statutory requirement that an APRN must have a collaborative relationship with the physician and a standard care arrangement (SCA).

L. Emrich provided an example for APRNs whose practices include rounding and discharging patients. If APRNs believe these patients may need the 30 MED per day average exception to control acute pain, APRNs would add the patients' treating physicians to the SCA, if not already listed. The SCA also needs to specify when the APRN would consult with the treating physician prior to issuing a prescription that exceeds the 30 MED average and include a statement regarding the singular accountability of the treating physician.

Dr. Richard Edgin stated the Medical Board received a significant number of comments and concerns from physicians regarding their acute pain rule and its impact on physician practice, especially orthopedic surgeons. The physicians are concerned because they believe the 30 MED average exemption is not enough to treat acute surgical pain. Dr. Edgin stated he would have preferred more discussion regarding the clinical exceptions, the criteria needed to identify and document the exceptions, and clarification of terms that were used in the Medical Board rule. He stated the Medical Board is working to provide clarification.

Chair S. Sievers stated that she believes the proposed Nursing Board rule is unclear to APRNs because of the singularly accountable language. Even if the language is added to the SCA, it remains unclear because APRNs have a collaborative, not a supervisory relationship with the physician. PAs are required to have a supervisory relationship with supervising physicians who are liable for PAs' practice. She stated she believes there are no legal ties within the APRN's collaborative relationship to make the physician accountable for the APRN's prescribing practice. She stated attorneys at her institution are reviewing the matter, and physicians are clarifying this with the Medical Board. Dr. Edgin agreed it could present an unclear situation with respect to liability.

Dr. Katherine Clark stated APRNs within her healthcare system contacted her directly with their concerns of disparity with PAs, and she is now concerned with the timeline of when the revised rule would be effective to provide parity for the APRNs.

K. Scordo stated that during the discussion at the Advisory Committee on Advanced Practice Registered Nursing (Advisory Committee) meeting, it was noted the treating physician who entered into the collaborative agreement with the APRN might not necessarily be the physician overseeing the patient's discharge. APRNs work simultaneously with multiple physicians without entering into SCAs with every physician. The term treating physician is confusing and not necessarily applicable to

practice. She recommended the use of "treating practitioner." However, she noted, as discussed with the Advisory Committee, the Nursing Board cannot change this without being in conflict with the Medical Board rule.

L. Emrich reported the Advisory Committee recommended the proposed language be revised to state that the SCA must comply with Rule 4731-11-13, OAC, the Medical Board rule, which would replace the language of treating physician and singularly accountable. The Advisory Committee also recommended that the Board seek clarification of the terms used from the Medical Board. Chair S. Sievers reported that the Board would hold the public rules hearing on November 15, 2017.

Review New Approved FDA drugs and Recommended Exclusionary Formulary

After reviewing new drugs approved by the FDA through September 2017, K. Scordo moved that none of the new drugs be added to the Exclusionary Formulary. B. Douglas seconded the motion. The motion passed. K. Scordo moved to recommend that the Board re-approve the current Exclusionary Formulary as adopted by the Board in May 2017. Dr. Edgin seconded the motion. The motion passed.

Flow Chart: Prescribing

The CPG reviewed the flow chart prepared by Holly Fischer, as requested by the CPG, regarding Rule 4723-9-10, OAC. Members commented it was helpful guidance and thanked H. Fischer. The CPG suggested embedding a hotlink to the rule, and use the term "schedule II" rather than "C-II" if there was enough space.

Letter to NCSBN: CARA 2016

L. Emrich referred to a letter sent to the National Council of State Boards of Nursing by the Nursing Board and summarized the Comprehensive Addiction and Recovery Act of 2016 (CARA 2016). The letter requested NCSBN's assistance to seek clarification regarding APRNs, other than NPs, being included. The Board later learned that legislation to amend CARA 2016 so that all APRNs would be included was recently introduced.

Schedule 2018 Meetings

The following dates for 2018 were agreed upon: March 5; July 23; and October 29

Adjournment

Having no further business the meeting adjourned at approximately 11:05 a.m.