

**BOARD OF MEDICAL EXAMINERS/BOARD OF NURSING
JOINT STANDING COMMITTEE MEETING**

227 French Landing Poplar Room
Heritage Place MetroCenter
Nashville, TN 37243
February 19, 2009

MINUTES

Call to Order: Cheryl Stegbauer called the meeting to order at 1:00 p.m.

Members Present: Cheryl Stegbauer, PHD, APN, RN, Donna Roddy, MSN, RN (by telephone), Marilyn Dubree, MSN, RN, Mitchell Mutter, M.D., Dennis Higdon, M.D.

Member Absent: Barrett Rosen, M.D.

Staff Present: Elizabeth Lund, Executive Director, BON, Rosemarie Otto, Executive Director, BME, Larry Arnold, MD, BME Consultant, Donna Fairchild, Nursing Consultant, Martha Barr, Nursing Consultant, Shiva Bozarth, Deputy General Counsel, Libby Miller, Director Health-Related Boards, Marsha Arnold, Administrative Director, BME, Sandra Powell, ASA III, BME, Sheila Bush, Administrative Manager, BON

Discussion: A roll call was taken to identify for the record members present. The minutes from the December 4, 2008 meeting were approved. There was a discussion about getting the minutes and documents to the Joint Committee in advance of the meeting. The Joint Committee then discussed the decision of the BME to take no action regarding the Joint Committee's recommendation to support advanced practice nurses issuing handicap placards, signing death certificates or performing physicians for peace officers. Dr. Mutter spoke. The BME took the position because they believed that it was not a good idea to take position on legislation in advanced of seeing the legislation first. Dr. Mutter indicated that he took a different position. He indicated that the BME and BON need to agree on these "no brainers" so that they can go forward on more vital issues such as tort reform and supervision. He indicated that he was disappointed that the BME took no action. Dr. Higdon said he was "a bit amused." He did say that he understood why the BME would not want to speak to "pending" legislation. He did also indicate that a dialogue had been started and that he thought that was a good goal to have been accomplished. Dr. Mutter asked about whether the Joint Committee had any "viability" at this point. Dr. Stegbauer asked what Dr. Mutter meant. Dr. Mutter said that if the two boards can not agree on basic issues, how we can have dialogue on really controversial issues. The question becomes whether or not we can move forward. He does not want the Joint Committee to be "window dressing." Dr. Stegbauer said that the BON did support the possible legislation. Dr. Stegbauer indicated that she thinks the potential is great and that the initial intent is for the Joint Committee to be a forum for rich discussion and support along common grounds. There was some discussion about whether or not there are things about what which the two boards could agree on as topics of conversation. Dr. Stegbauer said that supervision (next on the agenda) is the tough issue and since it is on the agenda, maybe it is time to discuss it.

Dr. Mutter indicated that all things should be on the agenda and what we are looking at are ways to take care of patients. Ultimately, “if all else fails, look at the patient.” We as boards “need to look at the patient first” and not let turf wars get in the way.

There is a discussion about whether or not the Joint Committee should continue on a regularly scheduled basis or an as needed basis. Dr. Mutter also suggested we get some legal advice about how we interact with the General Assembly and act on legislation. We know we can act on Rules, but what is the role regarding getting involved in legislation. Dr. Higdon and Dr. Stegbauer agreed. Dr. Stegbauer gives an illustration about possible legislation that was discussed by the BON at their board meeting yesterday. Dr. Stegbauer believes that doing this was appropriate, but a legal opinion would certainly be helpful.

Dr. Mutter then discussed whether or not the boards should lobby the General Assembly to grant the boards autonomy and if the boards can work together or should on this issue. There was a discussion about how the boards can help each other and Dr. Stegbauer used the example of breaking out into panels and how the BME’s assistance was helpful to the BON.

Shiva Bozarth introduced himself to the Joint Commission and told them that Department’s position is that the boards can not propose legislation but you can vote to support legislation. Then the boards’ wishes will be passed on to the Department’s legislative liaison. The Department will communicate the concerns of the boards to the legislative liaison. That does not mean the Department will support the position of the Board, but their input is incredibly important and will be passed on because they are considered to be the experts. There is nothing appropriate or inappropriate to support legislation, however. Mr. Bozarth indicated that frequently, when legislation is offered, a board member or board chair is called for their assistance and insight into the bill. Mr. Bozarth told the Joint Committee that as long as they are not asking them to proposed legislation on their behalf, you can take action to say you support or do not support. Ms. Miller indicated that the reason for this is because of the three branches of government. Dr. Mutter indicated that it is their desire also to be independent of the trade organizations also.

The group agreed to move on to the next discussion which is supervision. The respective rules were included in the package. Dr. Stegbauer provided the Joint Committee with some history about the background of supervision and titles “nurse practitioner” and “advanced practice nurse.” She told described the four categories of advanced practice nurses. She indicated that the national trend is to move to using the term advanced practice registered nurse. There is a discussion about the antiquated titles contained in the rules. For example, nurse practitioners can not automatically prescribe. They must become advanced practice nurses and they apply for a certificate of fitness to prescribe. Dr. Stegbauer explained to the Joint Committee the history surrounding some of the nuances in the law and why they exist they way the do.

National Council of State Boards of Nursing has a national mandate to have the title the same – advance practice registered nurse. Those practitioners would be able to prescribe. They can choose to or not. Dr. Mutter said that he thought very few advance practice nurses do not have prescriptive. He indicated that he thought Tennessee was somewhere in the middle between those states that have independent practice and those that have no prescriptive authority such as Georgia.

Dr. Stegbauer indicated that she thinks that states with independent practice do not have a lot of problems with it. Dr. Mutter indicated that among the nurse practitioner he talks too, they seem to want to maintain the supervision. Dr. Mutter wondered whether or not liability issues would discourage nurses from wanting independent practice. Dr. Stegbauer said she was surprised to hear this because it is not the lens from which she sees things. Dr. Mutter thinks maybe it is an evolution process, he does not know.

Dr. Higdon asked the question: where do we go from here with these rules? Do we need to word smith them? Try to make them work?

Then there is a discussion about a formal “collaboration” agreement in lieu of supervision. Dr. Stegbauer said that providers must always make sure they have someone available to see their patient. It is a referral network rather than supervision or even formal collaboration. Dr. Mutter said that we must be sure not to use the emergency room at night.

Two issues: lack of clarity in the rules plus the rules lag behind what is happening in the real world. What is supervision is not really clear anymore. In fact, the approach is more geared to team work and continuity of care – role clarity. The language in the rules will always be unclear unless we get in there. Two big disparate issues: old language that does not fit the current circumstances plus what about the future.

Dr. Mutter wondered if Denise Moran could assist the Joint Committee and tell them what is not enforceable from her point.

Dr. Stegbauer agreed that the language needs to be consistent, but even if the language is fixed, the Joint Committee is “not done” because things are evolving. It would really be a new day if we could reach a new consensus that is not based on old models. Taking a futuristic view as much as possible would be helpful. Dr. Stegbauer wants to develop a model for the future. Dr. Mutter said he does not think we can reach a consensus, but maybe some common ground which would be better for the patients.

Dr. Stegbauer wants to get information from other states. For example, for the states with independent practice, what are there problems. Dr. Stegbauer discussed the issue in rural states; how far a person has to go to get treatment. Dr. Higdon noted that there are not many “supervising” states anymore but, instead “collaborative” states. The old model does not seem to fit anymore. Things have become much more collaborative. One dimensional supervisory language is not really useful anymore. What works in Nashville at Vanderbilt is not going to work in Bledsoe County.

Dr. Stegbauer pointed out that just because you have “collaborative” agreements, does not mean that you can not go further. In fact, you should. That is where judgment comes into play.

Libby Lund pointed out that the BME rules only speak to those who prescribe. So someone who does not prescribe does not really fall under the rules. That is something that is not largely understood.

Dr. Mutter suggested that we need to have a forum to talk about these issues. A combined BME/BON meeting to listen to testimony or get input to discuss these things regarding supervision might be interesting. The Joint Committee liked the idea. Mr. Bozarth indicated that it could happen. He indicated that staff is “hearing the tone” but we are still unclear about what the Joint Committee wants. There is a discussion about the sunshine laws. The boards would be asking for more information and input from stakeholders. Mr. Bozarth cautioned the Joint Committee to avoid deliberating without an appropriate public notice.

Dr. Stegbauer suggests a joint meeting of the boards with a purpose to have an open forum. Safety and care for patients is paramount. Dr. Higdon made the motion, seconded by Ms. Dubree. All present were in favor. It was decided to take this decision to the respective boards.