

**Florida Society of Physical
Medicine & Rehabilitation**

FSPMR

Issue 2

NEWSLETTER

Nov. 2010



Vice-President's Message

Rigoberto Puente-Guzman MD

The FSPMR Board of Directors is working diligently for the needs of our society.

In early October the Board met and developed the society's consensus about the new Pain Clinic Rules. This consensus was sent out in FSPMR's first electronic newsletter, and was also sent out by AAPMR to Florida physiatrists who are not yet members of FSPMR.



**Thank You
Millennium Laboratories
for Support of this Newsletter**

On October 14, members of the FSPMR Board participated in an FMA Pain Clinic Rules teleconference held for the stakeholders. Representatives of the Florida Society of Anesthesiology, the Florida Society of Interventional Pain Physicians, the Florida Society of Neurology, the Florida Academy of Pain Medicine, the Florida Academy of Family Physicians, the Florida Chapter American College of Physicians, the Florida Osteopathic Medical Association, and the Florida Academy of Physician Assistants had also come to bring their concerns about the new Pain Clinic Rules (SB 2272) and their unintended and negative impact on legitimate pain clinics and patients.

This past weekend, the FMA Board of Governors and the various councils and committees met in Clearwater. I represented FSPMR at the FMA's Legislative Council. During the meeting the results of the October 14 FMA Pain Clinic Conference Call were reviewed and put to a vote for adoption for 2011 FMA Legislation (Resolution 10-312).

The following resolution was adopted:

In respect to section 458.3265(1)(a) rule that designates clinics," which advertise in any medium for any type of pain management services..." to register as a pain clinic; the FMA will attempt to obtain "clarification

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from the Department of Health to clearly define which type of advertisements will trigger registration requirement, and work on legislative language that would provide new, more equitable requirements for who has to register as a pain management clinic.”

As for sections 458.3265(a) and 458.3265(d) rules that address which clinics are considered pain clinics for registration based on any advertisement for pain ,type of patients and treatment given - is too vague and does not delineate the time frame for determining whether a majority of the patients are prescribed or dispensed controlled substances. The FMA will seek new legislative requirements to further define which clinics need to register as pain management clinics.

As for section 458.3265(1)(k) addressing a 5 year penalty for violation of the rules to all physicians irrespective of involvement by association, the FMA will “seek legislative change so that the 5 year ban only applies to those actively at fault.”

As for section 458.265(2)(a) indicating that after July 1, 2012, physicians would need to have pain management Fellowship training that is accredited by ACGME (Accreditation Council for Graduate Medical Education). This issue was heavily argued by both sides. The main arguments were that this brought legislative type activity into the realm of dictating what specialties could practice, which is unprecedented. It was also noted that pain management has a vast spectrum of crossover through all specialties, and third was concerns with access of care. Opposing opinion argued the need to strive for excellence and training to make the field of pain medicine stand out for quality. At the conclusion the majority voted to have FMA seek legislation to remove the ACGME requirements.

As for section 458.3265(2)(c) where the physician must complete a physical exam the same day that he or she dispenses or prescribes a controlled substance... The FMA will seek a legislative clarification that the physical examination by the physician has to be done only on the initial visit.

As for section 458.3265(4)(c) where “the Board of Medicine shall adopt a rule establishing the maximum number of prescriptions for scheduled II and III controlled substances... which may be written ... during 24hr period.” The FMA will not seek any action against this rule. It was

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deemed as the main political pivot to close pill mills and would be counter productive to pursue removing this rule.

As for section 458.3265(4)(d) defining what chronic nonmalignant pain is. There were no pressing issues with this rule.

As for rule 64B8-9.0131(2)(1) where each pain clinic's quality assurance program required to be reviewed by a licensed risk manager, and undergo the annual DOH unannounced inspection, adding another \$2500 to \$6,000 in cost to the mandated \$1500 DOH inspection fee. Argument was that there was no justification for this costly dual inspection requirement and the FMA will request that the Board of Medicine delete the rule provision requiring review by a licensed risk manager.

Section 456.057(9)(a)1 addresses the rules circumvention of need for DOH to have a subpoena in order to obtain medical records. The FMA will seek legislative change that would allow DOH to access the records without a patient release, but change the statute to require a subpoena and notice to the clinic.

All concerns noted in our consensus statement were addressed and supported by the FMA.

Sincerely,

Rigoberto Puente-Guzman, MD

Save the Date!
August 19-21
2011 Annual Meeting
Conference and Trade Show

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***Lobbying for Physicians ONLY
in Electrodiagnostics***

**FSPMR Lobby Fund
Thank You**

to these members who have paid their lobby assessment:

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