

**Georgia Occupational Regulation Review Council**  
**Meeting Minutes: July 21, 2021**

**Introduction**

Anna Miller recapped the last meeting from July 7, 2021. The Council voted on HB 305, and the final report is now posted on the OPB website. The Council heard an alternative proposal for HB 811 to address the problem through an agency rule change. The Council held off on voting on HB 430 due to a fiscal note request received the day of the meeting.

Anna started a motion to approve meeting minutes from July 7<sup>th</sup> GORRC Meeting.

Kelly Dudley makes the motion.

Stephen DeBaun seconds the motion.

The motion is approved.

**HB 811**

Anna Miller said the Council reached out to the Georgia Department of Community Health (DCH) to inquire about amending education standards through an agency rule change.

Melanie Simon is the Division Chief of Healthcare Facility Regulation at DCH. DCH licenses and regulates 25 different types of healthcare facilities, including x-ray sites. The agency registers x-ray sites and send field surveyors out for inspections. One requirement is the qualifications of the x-ray staff; credentials and qualifications are in DCH rules. If those credentials and qualifications were to change via statute, DCH would change its rules according to the new statutory requirement. Rule changes must be approved by the DCH board. Rule changes are common during a legislative session, and are typically addressed by DCH the following summer.

Kate Iannuzzi asked if DCH only updates rules based on a statutory and not any assessments about level of care.

Melanie Simon said rule changes do not have to come from a statutory change. The board would need to know the reason for a rule change, but it does not have to be something mandated by law. They sometimes make changes where there is a conflict with federal regulation, or because there may be a safety or quality issue. It becomes easier to get board changes through if it is mandated by state law, but it is not a requirement.

Kelly Dudley asked if, barring any opposition, DCH could implement the changes being requested by strengthening the education requirements in the current rule.

Melanie Simon said yes that could be the process.

Kelly Dudley asked if inspections are currently done annually.

Melanie Simon said no due to limited human resources. For x-ray facilities, there is an initial inspection, but there are vacant positions in the DCH x-ray program. For x-ray sites that are waiting to be registered, they can use a private company to do the inspection. They are rarely doing interval inspections; they are doing initial inspections and complaint investigations. It is a staffing issue at DCH. There are almost

10,000 x-ray sites registered in Georgia. While the rule change could be in affect at DCH, there could be limitations with enforcement and oversight.

Stephen DeBaun clarified the staffing limitations would still be there regardless of the potential agency rule change.

Kate Iannuzzi asked if DCH would be able to keep up with changes and amend agency rules as necessary. At this point, DCH hasn't updated the rule on its own, how can we ensure they will be updated as updates are necessary.

Melanie Simon said they currently spend 90 percent of their time on long-term care, and they are struggling to keep up with rule changes for those facilities. She drafts many rule changes herself, and they are typically not a big deal. If it is a requirement that needs to be updated frequently, it may not be best solved by a rule change. DCH tries to make rules broad enough that they last for a period of time. The rule could reference a certain set of national standards to achieve broad and amenable language. They currently have a long list of pending rules.

Kelly Dudley asked if a rule change is implemented and does not fully solve the problem at hand, is a statutory change still a future option.

Stephen DeBaun said if the General Assembly has delegated the rule-making process to DCH, it simplifies things for everyone to address the regulation through agency rule.

Anna Miller clarified the role of the Council is to look at the bill as currently written. The Council agrees the six (6) hour rule at DCH for educational training is currently inadequate. The discussion at hand is that there may be a way other than state regulation to address this problem. The legislation also does not currently state where the potential new board would be housed (i.e. Composite Medical Board, or the Professional Licensing Boards Division at SOS). The specifics of a DCH rule would not be written by the Council; the Council puts forth a recommendation of passage or recommendation of potential changes for HB 811 as currently written. She spoke to the bill sponsor, Rep. Sharon Cooper, and she is supportive of any manner that addresses the inadequate education standards.

Kelly Dudley asked if a rule change could be faster than the legislative process.

Stephen DeBaun said statutorily its about 50 days from the time you have a final draft until it could go into effect.

Melanie Simon said it takes about 90 days with DCH.

Anna Miller accepted a motion to recommend the proposed education requirements go through a DCH rule change. She read the findings of the Council.

Kelly Dudley makes the motion.

Stephen DeBaun seconds the motion.

The motion is approved 7-1.

Anna Miller said the fiscal note for HB 430 has been completed and is posted on the OPB website. She reviewed the fiscal note with the Council. One-time expenditures are estimated at \$266,000, and total annual expenditures are estimated at \$124,000.

Dr. Lisa Eichelberger said HB 430 does not mandate that the Georgia Board of Nursing would have to collect workforce data; rather, it grants the board the authority to require collection should it choose to do so. They are struggling to collect voluntary workforce data. The office of the Attorney General said they cannot require the collection of workforce data without changing the law. She said results cannot be extrapolated from this survey for any given question (i.e., data from Fulton County is meaningless without having data to compare with other counties). She said a nearly identical survey is being mandated in Georgia law for dentists and dental hygienists.

Anna Miller read the finding of the Council for HB 430.

Rep. Ginny Ehrhart spoke to the bill for her constituents. She is supportive of HB 430. She recognizes the need to compile this workforce data to help the industry in Georgia. In terms of the rights of Georgians, and nurses in Georgia, the message sent is that you will be mandated to complete this questionnaire to practice your chosen profession. She is interested to know why some nurses currently choose not to complete the survey, possibly out of privacy concerns. She is concerned by the comment from the previous meeting that the Georgia Board of Health Care Workforce may hide the opt-out button on surveys. In HB 430 as currently written, there are no protections against the information being identifiable. She hopes to strike a balance between helping the industry and not requiring individuals to complete a survey with the threat of not being able to practice their trade.

Anna Miller said individuals typically do not respond for a reason. If you require the survey, they are not necessarily inclined to be truthful with responses (i.e., there may be more data, but not necessarily good data). She suggested a recommendation not including the workforce data provision as a way to move the legislation forward, and to allow for the applicant group to work with the legislature on more articulate language and implementation standards.

Kelly Dudley said requiring a workforce survey when we have a shortage of nurses may not be advisable. It may also be a factor in an individual considering retirement.

Anna Miller accepted a motion to recommend the licensure of APRNs and the ability to issue parking permits for disabled individuals, and to not recommend the current required survey language in the bill.

Kelly Dudley makes the motion.

Rep. Ginny Ehrhart seconds the motion.

The motion is approved unanimously.

## **HB412**

Matthew Couper opened discussion by reading the interpretation of HB 412 by OPB and a statewide comparison for similar legislation.

The applicant group will give a more detailed presentation at the next GORRC meeting.

Stephen DeBaun asked what the work environment is for these professionals (i.e., elementary schools, etc.).

Colin Muething with the Georgia Association for Behavior Analysis said it would be a wide variety. Behavior analysts work in schools targeting skill acquisition or reduction of problem behavior, but not designed for any specific diagnosis. Professionals work with both humans and animals. The most common work is with individuals with developmental disabilities, both children and adults. For example, this could be done within a private business.

Anna Miller asked why the exemption in line 204 of the bill is extended to individuals employed by local boards of education.

Colin Muething said they have worked with the National Association for Professional Behavior Analysis, and this has come up in other states. They are providing services that are behavior analytic in nature, but don't always have their BCBA. To require all school systems to have to get all of these employees certified may be undo toward school systems. A lot of portions of the bill define the scope of behavior analysis; they cannot provide the sort of therapy that a psychologist would, so it is not infringing on other professions.

Anna closed the meeting by inviting speakers for HB 412 at the next meeting. The next meeting will be Wednesday, August 4<sup>th</sup>, at 3 p.m., and it will only be on HB 412.

Meeting is adjourned.