



**Tennessee Board of Medical Examiners
Office-Based Surgery Committee**

Wednesday, March 6, 2024

MINUTES

The Office Based Surgery Committee meeting of the Tennessee Board of Medical Examiners was called to order at 7:38 am on March 6, 2024, in the Poplar Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, TN 37243.

Committee Members Present: John McGraw, MD, Committee Chair
Keith Anderson, MD
John Hale, MD
Otis Rickman, DO
Penny Judd, Public Member

Staff Present: Stacy Tarr, Executive Director
Brandi Allocco, Administrative Director
Francine Baca-Chavez, Deputy General Counsel
Kavita Vankineni, MD, Medical Board Consultant

The Committee convened the meeting with a comprehensive discussion focused on proposed revisions and amendments to the Office Based Surgery Rules, specifically Rule 08-8002-.21. Dr. McGraw initiated the dialogue by requesting an overview of the revisions and amendments from Ms. Baca-Chavez. In her presentation, Ms. Baca-Chavez articulated that these proposed changes were necessitated by a recent incident involving an applicant who, after investing significant financial resources into constructing a surgical suite for office-based procedures, faced setbacks during the site inspection, resulting in the failure of the office to meet regulatory standards.

The central objective of the rule revisions and amendments is to establish a protocol for the review of architectural plans prior to the commencement of construction. Ms. Baca-Chavez highlighted that most of the proposed modifications can be found detailed in the documents from page 71 to page 76. These revisions and the accompanying language adjustments are directly informed by the regulations set forth by the Health Facilities Commission, particularly concerning the building standards applicable to Ambulatory Surgical Treatment Centers.

Another notable change in the regulatory landscape since 2019 is the transition in the authority responsible for conducting plans review and site inspections. Healthcare Facilities, which has recently become an independent State agency pursuant to Public Chapter 1119 in 2022, is now officially designated as the Health Facilities Commission. Moving forward, the responsibilities previously held by Healthcare Facilities will be assumed by the Department of Health, Office of Investigations.

A significant aspect of the revisions pertains to the fee structure. Initially, when the rules were evaluated, the fee was set at \$1,080.00. However, given that Healthcare Facilities was not integrated into the Board of Medical Examiners or the Board of Osteopathic Examination, there existed an outstanding debt owed to them for prior work completed. To address this financial obligation, the fee has been increased to \$1,200.00, with \$1,000 allocated to Healthcare Facilities and the remaining \$200 retained by the Board of Medical Examiners/Board of Osteopathic Examination. Ms. Baca-Chavez emphasized that the rule changes, initiated in 2019, have been meticulously reviewed to ensure continued alignment with the building codes applicable to Ambulatory Surgical Treatment Centers. While alignment with these codes is not mandated, it serves as a crucial reference point for future rulemaking. She expressed confidence that the rules are compliant, with only a few minor citations requiring attention. Notably, on page 75, there is a reference to a rule in the 1200 section that has become outdated due to restructuring; the new designation will be Rule No. 720, and necessary updates will be made to eliminate references to obsolete regulations.

The overarching goal of this Committee is to comprehensively review the current Office Based Surgery Rules to identify any additional needed revisions or amendments. Ms. Baca-Chavez reiterated the importance of a thorough rule-making process, suggesting that it is more efficient to implement all changes simultaneously rather than in a piecemeal fashion. She recommended that the Committee undertake a complete review of all existing rules prior to initiating the formal rulemaking process. Additionally, she mentioned that the Office of General Counsel has recently completed a retrospective review of the rules, although due to the complexity inherent in this Committee's regulations, significant input from Committee members will be essential.

Dr. McGraw raised concerns regarding both his own and the other Committee members' limited familiarity with building codes, highlighting a potential knowledge gap that could impact the review process.

Following an extensive discussion of the information presented, the Committee reached a consensus that additional time is necessary to thoroughly review and familiarize themselves with all pertinent information. This extension will also allow Ms. Baca-Chavez the opportunity to conduct research on rules implemented in other states and how they compare to those existing in Tennessee, as well as to explore methods for confirming the compliance of current and proposed rules.

Dr. Anderson subsequently motioned to accept the rules with the current revisions and amendments while committing to review the remainder of the rules prior to the next meeting. However, the motion did not receive a second and consequently did not advance.

The Committee requested the following information be gathered for the next meeting:

- American College of Surgeons core principals
- Survey and provide other states office based surgery rules
- Joint Commission on Accreditation of Healthcare Organizations standards
- Compare Ambulatory Surgical Treatment Centers and Office Based Surgery rules and have expert summarize
- Plan on performing inspections from the Office of General Counsel
- Consider if periodic inspections should be required
- Provide estimated cost on a consultant/expert to perform inspections

The meeting adjourned at 8:46 am.