

BOARD OF PODIATRIC MEDICAL EXAMINERS

OPEN SESSION MEETING

MINUTES

January 11, 2018

Room 106

The Public Session Meeting commenced at 1:01 PM, opened by Board President, Dr. Zachary Chattler.

Board members attending were: Drs. Cohen, Friedman, Gottlieb and Umezurike. Consumer members present were Frona Kroopnick and Sharon Bunch.

Board staff present: Eva Schwartz, Executive Director, Carla Boyd, AAG, Board Counsel, Rhonda Edwards, AAG, Board Counsel, Sheri Henderson, Deputy Executive Director, and Elizabeth Kohlhepp, Licensing Coordinator.

Representing MDH: Kim Lang, PhD and Sharon Bloom, DOH.

Guests Present: Dr. Jay LeBow.

COMAR 10.01.14.02.B:

Except in instances when a public body expressly invites public testimony, questions, comments, or other forms of public participation, or when public participation is otherwise authorized by law, a member of the public attending an open session may not participate in the session. Dr. Chattler read the COMAR Citation.

A. MINUTES:

1. Approval of minutes from the December 14, 2017 meeting

The minutes from the December 14, 2017 meeting were approved unanimously, as submitted.

B. OLD BUSINESS:

**1. Proposed Regulations defining what is required to prove 5 years of Practice for a Full License
COMAR 10.40.01.01**

The Board previously voted to propose a new regulation requiring an affidavit during the licensing process to prove five years of active practice immediately preceding the application for licensure. This personal affidavit would be acceptable in lieu of the residency program affidavit, if the applicant chooses to apply via this route. The proposed regulation has been approved by MDH, has moved through the Governor's Regulatory Review Office for approval, and was submitted to AELR. The proposed regulation is not part of the moratorium and could be available for comments within the next 45 days.

2. Proposed Regulation addressing Active podiatric practice- COMAR 10.40.01.02

The Board previously voted to propose a regulation to define active practice to be interpreted as requirement of an average 400 working hours of practicing podiatry per year, for consecutive five years.

The proposed regulation has been approved by MDH, has moved through the Governor's Regulatory Review Office for approval, and was submitted to AELR. The proposed regulation is not part of the moratorium and could be available for comments within the next 45 days.

3. Proposed Amendment to COMAR 10.40.06- Advertising Regulation

The Board previously voted on a proposed amendment to COMAR 10.40.06- Advertising concerning the identification of a podiatrist as such, or as a foot and ankle specialist, or foot and ankle surgeon in advertisements. The proposed regulation is currently held in moratorium.

4. Discussion of COMAR 28.04.01 through COMAR 20.04.01.08

Ms. Carla Boyd, AAG, Board Counsel, briefed the Board on the meeting held on January 8, 2018 for all the AAG's whose clients are the Boards regarding proposed COMAR 28.04.01 through COMAR 20.04.01.08 as mandated by SB 517. Ms. Boyd informed the Board that the proposed regulations have not been finalized at this time. It was noted that there will be guidelines for what OAH will and will not be reviewing for the Board's once more cases are received by the appointed Judges. The proposed regulations are still in the early stages; therefore, the Board's will have more information addressing the concern of when a complaint, or an action, or a type of action by the Board will be reviewed by OAH as the process moves forward.

5. Discussion of Board Chairs/Presidents and Executive Directors meeting with Secretary Schrader and Lieutenant Governor Rutherford, scheduled for January 8, 2018

Dr. Chattler, Board President, and Eva Schwartz, Executive Director, attended a meeting with Secretary Schrader and Lieutenant Governor Rutherford on January 8, 2018. At the meeting, topics like regulatory reform and the Prescription Drug Monitoring Program (PDMP) were discussed. Ms. Schwartz made the Lt. Governor and the Board aware that only 4% of podiatrists still have not registered with the PDMP through CRISP. These podiatrists won't be able to renew their CDS permits after July 1, 2018 when the PDMP system is mandating compliance with the registration, unless they register before that time. The Board was informed that Secretary Schrader wants to hold a meeting with Board Chairs twice a year, and Executive Directors every other month. The next meeting date has not been established yet.

6. MHCC - Certificate of Need (CON) concerning ASC's in Podiatry

Richard Bloch, representing the MPMA, previously discussed how current regulations require a CON if two or more podiatrists are in a group who work in an ASC. This could create issues for private practice practitioners who would like to use an ASC facility and therefore potentially damper growth in the podiatry field. The MPMA suggested to try and remove the requirement of a CON altogether or to raise the requirement from two or more practitioners to four or five practitioners for a one suite ASC. The MPMA requested the support of the Board.

After discussing the MPMA's request, the Board decided that it was not within the Board's purview to support the proposed change regarding CONs. The Board stated that individual Board members could write a letter of support if they so choose, but the Board in its entirety cannot as it does not deal with individual practitioner's licenses.

7. SB 110- State Board of Podiatric Medical Examiners – Licensure – Qualifications and

Examinations

The Board was made aware that the Bill is scheduled for a hearing on Thursday, January 18, 2018. Ms. Schwartz informed the Board that there was no opposition to the Bill and invited anyone who wanted to testify to the hearing. Ms. Schwartz was to testify on behalf of the Board.

C. NEW BUSINESS:

1. Proposed revisions to CPME publication 120, Standards and Requirements for Accrediting Colleges of Podiatric Medicine

The Board was given a copy of the proposed revisions to the CPME publication 120, standards and requirements for accrediting colleges of podiatric medicine for informational purposes. The Board noted that the CPME has a new Director, Heather Stagliano.

2. Inquiry from the MPMA

The Board received an inquiry regarding whether or not it is within a Maryland podiatrist's scope of practice to prescribe and oversee the infusion of a biologic product for uncontrolled gout. More specifically the questions were if the gout was solely in the foot and ankle region, could it be done or if it is generalized, but also in this area, could it be done by a podiatrist.

The Board decided to move the inquiry to the executive session and further discuss the Board's policy on how scope of practice inquiries will be handled.

3. Survey Letter from PDMP

The Board reviewed and discussed a letter from PDMP requesting feedback from the Board's regarding the program and its potential impact on clinical practices within each Board's provider group. The letter asked the Board's a series of questions based on its licensee's needs and how they could better assist with the implementation of the mandate. The letter also noted the mandatory use of the PDMP data in certain criteria as well as exemptions to the mandate. The mandatory use includes:

1. Before beginning new course of treatment with opioid or benzodiazepine
2. If course of treatment extends beyond 90 days, then at least every 90 days before prescribing or dispensing opioid or benzodiazepine

The Exemptions, as listed in the statute, include:

1. For no more than 3 days supply
2. For cancer treatment or cancer-related pain
3. To a patient in an inpatient hospital
4. To a patient in hospice

5. To a patient residing in nursing or other assisted living facility
6. To treat or prevent acute pain for a period of not more than 14 days following:
 - a. Surgery with general anesthesia
 - b. Fracture
 - c. Significant trauma
 - d. Childbirth
7. For a specific medicine included in a list compiled by the Secretary of drugs with low potential for abuse
8. In the event of electrical or technological issues

After discussion, the Board stated that any surgical procedure should be included in the exemptions and not just surgery with general anesthesia. The Board also noted that the rating scale the PDMP provided in the survey letter was focused more on an individual provider not a group as a whole therefore; it is not accurate to answer the questions in this fashion. Kim Lang, MDH, informed the Board that answering the survey in a paragraph format and not each question individually would be acceptable for the PDMP.

4. Letter from MDH on Prescription Drug Monitoring Program House Bill 437, Chapter 147 (2016), Section 8 Contingency Determination

The Board received a copy of the letter for MDH on Prescription Drug Monitoring Program House Bill 437, Chapter 147 (2016), Section 8 Contingency Determination for informational purposes.

5. During Meeting Added New Business:

a. At the December 14, 2017 meeting the MPMA expressed concerns about the Maryland Cannabis Commissions meeting that was held earlier that day and what the topic of the meeting was regarding. Carla Boyd, Board Counsel, brought the matter to the attention of the AAG for the Cannabis Commission and discovered that it was not intentional that podiatrists were left out of the meeting. The meeting was planned as an informal meeting regarding how the Commission would be handling meetings in the future. The Commission was made aware that the Board of Podiatry requests to be included in all later meetings.

With no further business, the Board meeting concluded at 1:45 PM.

Respectfully submitted,

Yvonne Umezurike, Secretary/Treasurer



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