

**BOARD OF PODIATRIC MEDICAL EXAMINERS
OPEN SESSION MEETING MINUTES**

**February 10, 2011
Room 110**

The Open Session meeting of the Maryland Board of Podiatric Medical Examiners was held on Thursday, February 10, 2011, in Room 110, 4201 Patterson Avenue. The meeting was called to order at 1:16 p.m. by President Dr. David Freedman.

Additionally, board members present included: Drs. Tanya Sellers-Hannibal, Jay LeBow, Steve Chatlin, and Craig Friedman. Public members of the board were Jay Boyar and Barbara Crosby.

Staff: Eva Schwartz, Executive Director, Tony DeFranco, AAG, substituting for Board Counsel, Richard Bloom, AAG, and Sheri Henderson, Administrative Officer.

Guests present: Linda McGinnis, D.P.M., Maryland Podiatric Medical Association (MPMA), Paula Hollinger, DHMH, Sharon Bloom, DHMH and Kristen Neville, DHMH.

A. MINUTES:

The minutes of the December 9, 2010 meeting were approved with changes.

The amended minutes will be posted as approved on the Board's website.

B. OLD BUSINESS:

1. Updates on the Board's sanctioning guidelines process

The Board agreed to table the discussion until the March 10, 2011 meeting, and the return of Mr. Bloom.

2. Reporting on testimony in Annapolis

Mrs. Schwartz indicated that the testimony in the Senate was very successful, concerning all four bills: SB 46, SB 76, SB 90 and SB 117.

The hearing in the House on the Sunset Bill-HB 66, for the extension of the Board for the next ten years went well. An amendment will be introduced requiring reporting on the Board's licensees' trending and subsequent budgetary status, five years hence. Lisa Simpson, HGO Committee Counsel, stated that the amendments were introduced so that this Board would have a reporting requirement consistent with the other Healthcare Occupation Boards.

Mrs. Schwartz expressed concern that the Podiatric Medical Assistant (PMA) Bill would need some amendments if it were to pass. Mrs. Hollinger believed that lobbying will assist in promoting the PMA Bill on the House side. She suggested the following:

- (1) Cite other Boards that have assistants**
- (2) Stress the safety issues inherent in taking x-ray**
- (3) Give detailed information regarding the Boards' State mandated/imposed expenses and cuts, and the impact on the Board for such, and the subsequent lack of adequate revenue to subsidize all the expenses, if the PMA Bill were not to pass.**
- (4) Reiterate the fact that developing a new method for collecting revenue in lieu of raising the licensees' fees, as well as tending to patient safety was strongly recommended in the DLS report.**

The Board indicated that if the PMA Bill needs an amendment to pass, then the Board would be amenable to requiring only registration for those assistants that take x-rays.

Regarding HB 190, Ms. Neville indicated that she spoke with Delegate Hubbard and he would speak with Chairman Hammen about the Board's concerns in amending into the bill the requirement for malpractice coverage for the Volunteer Podiatrist License. Mrs. Hollinger indicated that the Volunteer Podiatrist License bill should state that podiatrists have a choice in either choosing or not coverage.

3. Review of Statutory requirements for HB114

Mrs. Schwartz indicated that the Board was in compliance.

The Board stated that Mrs. Schwartz needed to post the next Board member vacancy, as required by HB 114.

C. NEW BUSINESS:

1. Inquiry from Bradley Lamm, D.P.M regarding the following specific surgical procedures; if they would fall within the scope of practice.

a. Tibia-talar-calcaneal (TTC) fusion or tibia-calcaneal (TC) fusion with intramedullary locking nail:

The Board's response: 16-102 Podiatry Act "Practice Podiatry means to diagnose or surgically, medically, or mechanically treat the human foot or ankle...." Distal tibia is included in ankle therefore this procedure is within the scope as are the other anatomical areas raised by this question.

b. Removal of locking intramedullary nail screw(s) from the tibia:

The Board's response: 16-102 Podiatry Act "Practice Podiatry means to diagnose or surgically, medically, or mechanically treat the human foot or ankle...." As long as the locking intramedullary nail screw(s) are in distal tibia portion of the ankle, then this is within the scope.

c. Repair of delayed or nonunion of Lateral malleolus/fibula:

The Board's response: 16-102 Podiatry Act "Practice Podiatry means to diagnose or surgically, medically, or mechanically treat the human foot or ankle...." Practice act allows for ankle surgery and the lateral malleolus makes up one component of the ankle joint. Therefore, repairing delayed or nonunion is within the scope of podiatry practice.

d. Lateral malleolus/fibular osteotomy:

The Board's response: 16-102 Podiatry Act "Practice Podiatry means to diagnose or surgically, medically, or mechanically treat the human foot or ankle...." Practice act allows for ankle surgery and the lateral malleolus makes up one component of the ankle joint. Therefore, an osteotomy at the ankle joint is within the scope of the podiatry practice act.

e. Syndesmotic fusion of the tibia and fibula:

The Board's response: 16-102 Podiatry Act "Practice Podiatry means to diagnose or surgically, medically, or mechanically treat the human foot or ankle...." Practice act allows for ankle surgery as the distal tibia and fibula are two of the components of the ankle joint. Therefore, fusion at the ankle joint is within the scope of the podiatry act.

f. Osteochondral defect/Lesion repair of the talus, fibula, and tibia:

The Board's response: 16-102 Podiatry Act "Practice Podiatry means to diagnose or surgically, medically, or mechanically treat the human foot or ankle...." Practice act allows for ankle surgery and procedures for repairing osteochondral defects in the ankle are within the scope of the podiatry act.

g. Gastrocnemius recession below the mid calf:

The Board's response: 16-102 Podiatry Act "Practice Podiatry means to diagnose or surgically, medically, or mechanically treat the human foot or ankle.... or the soft tissue below the mid calf." Practice act allows for Gastrocnemius recession as it is a soft tissue procedure as long as it is performed below the level of the mid calf. In this example it is within the scope of the podiatry practice act.

h. Medial malleolar osteotomy

The Board's response: 16-102 Podiatry Act "Practice Podiatry means to diagnose or surgically, medically, or mechanically treat the human foot or ankle...." Practice act allows for ankle surgery and the medial malleolus makes up one component of the ankle joint. Therefore, an osteotomy at the ankle to gain access to repair an osteochondral defect is within the scope of the podiatry practice act.

i. Repair of Delayed or Nonunion of medial malleolus:

The Board's response: 16-102 Podiatry Act "Practice Podiatry means to diagnose or surgically, medically, or mechanically treat the human foot or ankle...." Practice act allows for ankle surgery and the medial malleolus is a component of the ankle joint. Therefore, a repair of this component bone of the ankle is within the scope of the podiatry practice act.

j. Supramalleolar Osteotomy:

The Board's response: 16-102 Podiatry Act "Practice Podiatry means to diagnose or surgically, medically, or mechanically treat the human foot or ankle...." Practice act allows for ankle surgery, however, this term "Supramalleolar" is too broad and not specific as to what level this osteotomy is intended. Supramalleolar would be within the scope as long as it was at the level of the ankle complex but no higher.

2. Inquiry from Bradley Lamm, D.P.M -If an Ankle Supramalleolar Osteotomy is within the scope of practice.

The Board indicated that Supramalleolar Osteotomy that **corrects the ankle pathology is within the scope of practice.**

3. Advertising Inquiry-Myron Z. Bernstein, D.P.M.

The Board voted unanimously that any public advertising for an off label use of a product that is not cleared or approved by the FDA, is not permissible. If the doctor advertises that he/she performs laser surgery, that statement is acceptable. It is not acceptable advertising if he/she is treating nail fungus infections with Laser brand X, unless the Laser is FDA cleared or approved.

Additionally, at any time, and in any circumstance, any advertising must ALSO be compliant with the Board of Podiatry's advertising laws.

4. Proper Billing Inquiry-Christine M. Chambers, D.P.M.

Dr. Chambers inquired from the Board that if she evaluated and treated patients of a senior apartment complex in their wellness center, as opposed to seeing them in their individual apartments, should she bill for a home visit or should she bill for an office visit, despite that she is not paying rent?

The Board voted unanimously that Dr. Chambers' visits to Senior Apartment Complex should be billed as home visits.

5. Investigating anonymous complaints

The Board reviewed a written response from Richard Bloom, AAG indicating that the Board can investigate anonymous complaints. The Board requested that the language specify "As pertain to specific complaints".

Historically the Board has not accepted anonymous complaints.

Mrs. Schwartz will speak with Mr. Bloom regarding possible modification of terminology.

6. FY 2012 Budget Appropriation

Mrs. Schwartz indicated that the Budget allocation was approved. She also acknowledged Dr Freedman for his successful negotiations with Eloise Foster, Secretary of DBM, so that the \$92,000.00 in funds that were slated for cuts from the Board's Budget were reinstated. This was a huge accomplishment, since if the cuts were to have materialized, the Board's solvency would have been eliminated.

The Budget hearings are to be held on February 19 and 20, 2011. Ms Schwartz will give an update at the March 10, 2011 meeting.

7. Scope of Practice Inquiry-ReBuilder Medical Inc.

The Board voted to approve the following:

- a. In the State of Maryland, a podiatrist can, prescribe the ReBuilder for a patient who has met the criteria.**
- b. The same podiatrist can dispense the ReBuilder directly to the patient in the office.**
- c. After the 30 day trial period, the same podiatrist can complete the CMN as the physician and the DME provider.**

8. Review of Proposed SENATE BILL 371

The Board agreed to table the discussion until the March 10, 2011 meeting.

9. Review of Proposed HOUSE BILL 286

The Board agreed to table the discussion until the March 10, 2011 meeting.

10. Licensure Requirements for Post Residency Fellowship

The Board agreed to table the discussion until the March 10, 2011 meeting.

With no further business, the meeting was adjourned at 2:32 p.m.

CLOSED SESSION: Pursuant to Maryland State Government Annotated "10-501 et seq." the Board unanimously approved a motion to close its meeting at 2:32 p.m., in room 110 for the purpose of complying with the Maryland Medical Practice Act that prevents public disclosures about particular proceedings or matters.

Respectfully submitted,

Jay H. Boyar, Secretary/Treasurer

