

BOARD OF PODIATRIC MEDICAL EXAMINERS

OPEN SESSION MEETING

AGENDA

January 12, 2017

Room 106

The Public Session Meeting commenced at 1:12 PM, opened by Board President, Dr. Philip Cohen.

Board members attending were: Drs. Chattler, Friedman, Gottlieb, and Umezurike. Consumer members present were Ms. Frona Kroopnick and Mr. Jay Boyar.

Board staff present: Eva Schwartz, Executive Director, Tony DeFranco, AAG, Board Counsel, Sheri Henderson, Deputy Executive Director, Elizabeth Amspacher, Licensing Coordinator, Danielle Vallone, Board Investigator, Kristen Neville, Legislation.

Representing DHMH: Brandon Wright, Assistant Director for Health Care Occupations Board, Sharon Bloom, DHMH.

Representing MPMA: Richard Bloch, Executive Director.

Guests present: Drs. LeBow, Glazer, and Rothstein.

A. MINUTES:

1. Approval of minutes from December 8, 2016 Meeting

The minutes from the December 8, 2016 meeting were approved unanimously, as submitted.

B. OLD BUSINESS:

1. Procedure for Closing an Office- guardianship of the original record

Anthony DeFranco, Board Counsel, informed the Board that COMAR 10.01.16.04.C clearly states that, "Medical records are the personal property of the entity providing health care..." This means that the provider gets to keep the original and the patient has rights to only a copy of a medical record.

2. COMAR 10.40.02.03A Licensing and Continuing Education Requirements

The Board was informed that the Criminal Record Check regulations for both State and National based inquiries became effective on December 19, 2016. The Board has received their personal certification number for background check inquiries and will be adding the criteria to their full license application.

The Board was made aware that every background check will be fresh, there are no exceptions.

3. Draft regulations related to dispensing posted on the Board of Physicians' Website

The Board was given a copy of the proposed Board of Physician's Regulations regarding the policies for a licensed physician to dispense. Within these proposed regulations is the authority for the licensed

physician to delegate authority to a staff member to validate patient's prescriptions in the system. The Board may be able to pursue the same regulation change in the future.

4. Subtitle 05 Freestanding Ambulatory Care Facilities COMAR 10.05.01- Podiatry ASC

The Board was given a copy of Subtitle 05 Freestanding Ambulatory Care Facilities COMAR 10.05.01 for informational purposes. It was noted that the term "supervising physician" was replaced with "qualified health care practitioner" within the new regulations.

C. NEW BUSINESS:

1. SB 38- Updating Advisory Boards and Councils- Proposed Legislation

The Board was given a copy of Senate Bill 38- Updating Advisory Boards and Councils- proposed legislation for review. The Board was informed that in the proposed regulations there is a podiatrist on the supervisory Board. The Board will send a letter of support as well as gratitude for the inclusion. The Bill has a hearing scheduled for January 19, 2017.

2. Inquiry from MPMA about Using Groupon for podiatric services (Richard Bloch, MPMA)

Richard Bloch, Executive Director, MPMA, asked the Board if it was appropriate for a podiatrist to advertise through Groupon for services. The Board expressed concerns with the model of Groupon and how it has the appearance of fee-splitting, as well as, how ethical issues could arise. The Board re-iterated that it has no position on Groupon.

3. Proposal for Amendment or Repeal of COMAR 10.40.01.05 Post-Graduate Clinical Training

The Board discussed the current COMAR 10.40.01.05 Post-Graduate Clinical Training and how it pertains to obtaining a full license in the state. Current COMAR states that an applicant only needs one (1) year of post-graduate training to get a full license. Current residency programs range up to three (3) years, therefore could allow applicants to get a license without having to complete a full training program. The Board made a motion to change the law from "Shall complete 1 year of post-graduate clinical training in a residency program" to state "successful completion of an approved residency program". The motion was approved. One Board member voted against the change.

4. Inquiries from the Federation of Medical Boards

The Board received the following inquiries from the Federation of Podiatric Medical Boards.

1) NC Board of Dental Examiners v. FTC

The FPMB wishes to help facilitate communication across its member State Boards in how they are responding to the impact of the NC Board of Dental Examiners v. FTC & Board Certification decision.

The Board informed the Federation that the Health Occupation Boards are introducing proposed legislation to address the NC Dental Supreme Court decision.

2) Board Certification as a Requirement for Licensure

The American Board of Foot and Ankle Surgery (ABFAS) is interested in determining which State Boards require board certification for podiatry licensure. The FPMB wishes to expand this to also include if board eligibility is part of your licensure requirements.

The Maryland Board of Podiatric Medical Examiners does not require specialty certification as a licensure requirement to practice in Maryland. However, the hospitals may require a specific Board certification (APMA recognized and approved) when delineating surgical privileges for services rendered by podiatrists. Additionally, the Podiatry Board's statute also mandates that if osseous surgery is performed in an Ambulatory Surgical Center by a podiatrist, such podiatrist must have hospital delineated privileges.

5. Formation of Committee to handle Criminal Background Check Findings

The Board formed a committee to handle all criminal background check discrepancies. This committee includes Philip Cohen DPM, Board President, Zachary Chattler DPM, Board Vice-President, and Jay Boyar, Secretary.

6. Board Governance Article; CLEAR News, December 2016 Issue- Informational

The Board was given a copy of the Board Governance Article, December 2016 issue from Clear News for informational purposes.

7. Inquiry about self referral law: Is it a Stark Law violation (self referral law) to refer a patient to a physical therapist that is employed by the referring podiatrist?

The Board stated that yes, this referral is permitted. The self-referral law does not apply to a "health care practitioner who refers a patient to another health care practitioner in the same group practice as the referring health care practitioner." See HO 1-302(d)(2)

8. HB 63 - Health Care Practitioners - Cost Estimate Notice – Proposed Legislation

The Board was given a copy of House Bill 63 - Health Care Practitioners - Cost Estimate Notice – Proposed Legislation for review. Richard Bloch informed the Board that the MPMA will be opposing the Bill. The Board will take no position on the Bill.

9. Review for eligibility for FULL License:

a. Robert Breiner, D.P.M.

b. Kellee Campbell, D.P.M.

The above identified licensure candidate's were approved unanimously for the issuance of a full Maryland License.

With no further business, the Board meeting concluded at 2:21 PM.

Respectfully submitted,

Jay H. Boyar, Secretary/Treasurer

