

BOARD OF PODIATRIC MEDICAL EXAMINERS

OPEN SESSION MEETING

MINUTES

February 12, 2015

Held at the Maryland Health Care Commission, Room 101

The Open Session Meeting chaired by President Craig Friedman, DPM, opened at 1:05 PM.

Board members attending the meeting were Drs. Zachary Chattler, Jay LeBow, Todd Harrison and Philip Cohen. Consumer members present were Jay Boyar, M.Ed., and Barbara Crosby, RN.

Staff attending: Eva Schwartz, Executive Director, Anthony DeFranco, Board Counsel, Sheri Henderson, Administrative Officer, and Elizabeth Amspacher, Licensing Coordinator.

DHMH Guests attending: Paula Hollinger and Sharon Bloom.

MPMA Representatives attending: Richard Bloch, Esq., and Chanelle Carter, DPM.

Public at large attending: Harold Glazer, DPM, and Barbara Hirsch, DPM.

A. MINUTES:

1. Approval of minutes from January 8, 2015, Meeting

The Minutes were approved unanimously as submitted.

B. OLD BUSINESS:

1. CME's in consideration to be awarded for pro bono podiatric services, 2018-2019 license

The Board reviewed the regulations from the Board of Physicians that awards CME's for their profession's pro bono services, and revisited the topic of doing the same for podiatrists. After discussion, the Board voted to award CME credits for podiatrists who perform pro bono podiatric services in a Board approved location for Board approved podiatric services. This recommendation was to be considered based on five (5) hours of approved service earned for one (1) Credit hour to be awarded toward the required CME's, with a maximum of five (5) credits allowed per renewal cycle. The vote carried with a 3 for and 2 against, with 2 abstentions. The Board will approve the pro bono work hours submitted on a case by case basis. This change will be incorporated into the proposed amended regulations to be effective toward the 2018-2019 licensure cycle. The Board will need to draft the regulations.

2. CME requirements criteria for Dispensing Permit Holders

The Board was given a copy of the list of approved courses that meet the requirements for the mandatory CME's now required for all dispensing permit holders. These courses are approved by the Secretary's Office, and will be accepted by the Board towards the 50 CME's required for a full license

renewal. These courses, along with the CME requirement guidelines, have been listed on the Board's website for access to all dispensing permit holders, or any podiatrist that would be interested in applying for a drug dispensing permit.

3. COMAR 10.40.07 Civil Penalties

The Board was given a copy of the posting in the Maryland Register of the Final Action on the Regulations: COMAR 10.40.07 Civil Penalties. On February 2, 2015, the Secretary of DHMH adopted amendments to Regulations .02-.04 under COMAR 10.40.07 Civil Penalties.

4. Notice of proposed action printed: COMAR 10.40.03.02 Collection of Fees for Dispensing Permits

The Board was given a copy of COMAR 10.40.03.02 and was informed that the new dispensing permit fee of \$1050.00 is now in effect with \$1000.00 going into the General Fund and \$50.00 as a processing fee for the Board for each new application or each renewal, for an effective five (5) year period. Eva Schwartz, Executive Director, informed the Board that the inspections performed by the Division of Drug Control in podiatrists' offices currently holding dispensing permits, have been stellar without deficiencies.

5. Request for CME requirement for opioid management

The Board reviewed a letter received from the Department of Health and Mental Hygiene requesting the Board to mandate one (1) CME credit per renewal cycle addressing prescribing practices for controlled substance medications for pain management. It was noted that the Board of Physicians and Board of Nursing have both decided to comply with this request. The Board discussed the request in detail, and will continue the discussion at the March 12, 2015, meeting.

C. NEW BUSINESS:

1. Proposed Regulations Regarding Authority for Informal/Formal Discipline

The Board was given a copy of proposed amendments to the present regulations addressing the authority for Informal and Formal disciplinary actions that could be taken by the Board. Richard Bloch, Executive Director of MPMA, suggested that the Board considered moving a disposition agreement under Informal action, instead of Formal action, as identified in the draft proposal. It was also noted that processes for delegation of cases to the Office of Administrative Hearings was added in extreme detail to the proposed regulations. The Board voted unanimously to approve the proposed amendments to the present regulations with the noted change, as mentioned above by Mr. Bloch.

2. House Bill 58- Health Occupations Members of Boards and Advisory Committees

Prohibition Against Concurrent Service

The Board was given a copy of House Bill 58- Health Occupations Members of Boards and Advisory Committees Prohibition against Concurrent Service. The Board has decided to support the bill with the amendments proposed by the MNA.

3. FYI- Topics Quarterly Newsletter Volume 29/No. 4 Winter 2014 from Gordon,

Feinblatt, Rothman, Hoffberger & Hollander, LLC

The Board received the Topics Quarterly Newsletter Volume 29/No. 4 Winter 2014 from Gordon, Feinblatt, Rothman, Hoffberger & Hollander, LLC for informational purposes.

4. Reporting Child Abuse

The Board received a request from a private law firm to post an article on the website regarding the proposed law in support of reporting child abuse. The Board discussed the request and decided not to post this article. Depending on future laws passed, the Board will post the information as applicable.

5. Advertising Inquiry

The Board received an inquiry regarding whether or not a podiatrist could advertise by offering a coupon for a free over the counter moisturizer product to new patients with mentioned coupon. The Board reviewed the inquiry and decided that this type of advertisement is allowed within the Board's advertising regulations, and within the scope of podiatry.

Eva Schwartz, Executive Director, requested the Board develop a form for podiatrists to use when sending inquires to the Board for review. A form will be created and placed on the Boards website, when available.

6. HB 3-Prescription Drug Monitoring Program Requirements

The Board voted to oppose the bill due to the lack of practicality in accommodating such a mandate, and the huge overall fiscal impact.

7. Electrical Stimulation Inquiry

The Board received an inquiry regarding any restrictions, discussions, or articles related to electrical stimulation therapy performed by podiatrists in Maryland, and if the effectiveness of treatment is considered to be medically necessary or investigational therapy.

The Board stated that electrical stimulation therapy is a long standing approved physical medicine, which is not investigational, thus can be provided by a podiatrist in a care plan.

8. SB 198 - Health Care Disparities, Cultural and Linguistic Competency, and

Health Literacy - Continuing Education Requirements (Mandatory)

The Board received a copy of Senate Bill 198 - Health Care Disparities, Cultural and Linguistic Competency, and Health Literacy - Continuing Education Requirements. The Board decided to oppose the bill but will continue to publish resources and educational material on this topic in the Board's newsletter and website.

9. Shielding Bills- HB 244 and SB 130

The Board received a copy of Senate Bill 130- Criminal Procedure-Shielding-Misdemeanor Convictions and House Bill 244- Maryland Second Chance Act of 2015. The Board decided to support Senate Bill 130 with an amendment to 10-302 section B to include "Healthcare Occupation Board". The Board will support House Bill 244.

10. SB 347 Health Occupations – Prescriber–Pharmacist Agreements and Therapy Management Contracts

The Board received a copy of Senate Bill 347-Health Occupations-Prescriber-Pharmacist Agreements and Therapy Management Contracts. After discussion, the Board proposed some amendments to the bill including, Section 12-6A-06 line 26 (a-1-i) removing the added word 'initiation' and line 3 (b) removing the words 'may authorize' due to the fact that it gives pharmacists authorization to initiate prescriptions without a prescriber's approval. In Section 12-6A-07 (b) the Board requested to keep the original language because a therapy management contract should expire unless it is renewed by a licensed prescriber, a licensed pharmacist, and the patient. Finally, in section 12-6A-10 (a) the Board requested to be added to the language with the Board of Physicians and Board of Nursing as a stake holder, when promulgating regulations on this topic. The Board supports the Bill with these amendments.

11. Proposed Addition of a Wavier Provision for the CPR Requirement (Richard Bloch, Esq., MPMA)

Richard Bloch requested that the Board review the CPR requirement in the current regulations and consider amending the requirement, to include a waiver on a case by case basis for the hands-on portion, to address the needs of those podiatrists unable to complete the task due to documented medical reasons or restrictions. It was stated at the meeting that the Board's regulations require CPR certification by authorized providers with no allowances for any exceptions when attempting to renew an Active license. In changing the regulations to allow for the waiver of the skills set portion, it would accommodate those exempted by the ADA laws, or, as approved by the Board. After discussion on this topic, the Board voted to propose emergency regulations to include a CPR waiver for the skills set, hands on portion, based on hardship documented by a doctor's justification letter, including a medical signature, to be reviewed and accepted on a case by case basis. The Board voted to promulgate said waiver, with one abstention.

D. OTHER:

1. Jay LeBow, D.P.M., inquired as to the status of the response from the Cosmetology Board regarding the inclusion of a podiatrist's office in the list of entities permissible to be used by a licensed nail technicians as an independent work place. The topic was tabled until the March 12, 2015 meeting.

With no further business, the Meeting concluded at 3:32 PM.

Respectfully submitted,

Jay H. Boyar, Secretary/Treasurer