

**BOARD OF PODIATRIC MEDICAL EXAMINERS**

**OPEN SESSION MEETING**

**MINUTES**

**March 8, 2018**

**Room 106**

**The Public Session Meeting commenced at 1:02 PM, opened by Board President, Dr. Zachary Chatter.**

**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, Rhonda Edwards, AAG, Board Counsel, Sheri Henderson, Deputy Executive Director, and Elizabeth Kohlhepp, Licensing Coordinator, and Danielle Vallone, Board Investigator.**

**Representing MDH: Kim Lang, PhD.**

**Representing MPMA: Richard Bloch, Esq., Executive Director.**

**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.**

**A. MINUTES:**

**1. Approval of minutes from the February 8, 2018 meeting**

The minutes from the February 8, 2018 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 anticipated to be printed on March 30, 2018 in the Maryland Register for a comment period ending on April 30, 2018.

## **2. Proposed Regulation addressing Active podiatric practice- COMAR 10.40.08.02**

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 five consecutive 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 anticipated to be printed on March 30, 2018 in the Maryland Register for a comment period ending on April 30, 2018.

## **3. Proposed Amendment to COMAR 10.40.06.03- 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 or any media platforms. The proposed regulation has been removed from moratorium, moved through the Governor's Regulatory Review Office for approval, and was submitted to AELR. The proposed regulation is anticipated to be printed on April 13, 2018 in the Maryland Register for a comment period ending on May 14, 2018.

## **4. HB 922- Maryland Department of Health- "Pill Mill" Tip Line**

The Board received a copy of the latest version of HB 922-Maryland Department of Health- "Pill Mill" Tip Line for informational purposes.

## **5. Comments regarding revisions to CPME 120 and 130 documents extended to April 1, 2018**

The Board was made aware that the Council on Podiatric Medical Education (CPME) is currently in the process of reviewing and updating their exams and documents. Dr. Chattler and Ms. Schwartz were invited to attend a video conference regarding the revisions on April 27, 2018.

## **6. SB- 110-State Board of Medical Examiners-Licensure-Qualifications and Examinations**

Eva Schwartz, Executive Director briefed the Board on her testimony on SB-110-State Board of Medical Examiners- Licensure-Qualifications and Education. The Bill has passed the Senate and moved to the House with a hearing scheduled for March 22, 2018 at 1 pm. Ms. Schwartz requested a volunteer to attend the House hearing and testify on behalf of the Board.

### **C. NEW BUSINESS:**

#### **1. SB 396- Open Meetings Training Act- Training- Application**

The Board received a copy of SB 396- Open Meetings Training Act- Training- Application for informational purposes.

#### **2. SB 1223- Controlled Dangerous Substances Registration- Authorized Providers-**

#### **Continuing Medical Education**

The Board received a copy of SB- 1223- Controlled Dangerous Substances Registration- Authorized Providers- Continuing Medical Education. The Bill proposes that all CDS permit holders will be mandated to complete specific CME courses that previously were only recommended. After discussion, the Board voted to take “No Position” on SB 1223.

### **3. HB 1430- Podiatric Physicians- Board Testimony**

The Board discussed the testimony on HB 1430-Podiatric Physicians given at the hearing on March 1, 2018 by Board member, David Gottlieb, DPM. MPMA members also attended the hearing to testify on behalf of podiatrists.

### **4. HB- 1597-Occupational Licenses or Certificates- Application Determinations-**

#### **Use of Criminal History**

The Board was given a copy of HB-1597-Occupational Licenses or Certificates- Application Determinations- Use of Criminal History. After review, the Board voted to take “No Position” on HB 1597.

### **5. Inquiry about if EPCS (e- prescribing ) has become mandatory in the State**

The Board received an inquiry regarding if the legislature to mandate e-prescribing for controlled substances called EPCS was placed into effect on October 1, 2017. The Board was made aware that currently e-prescribing is not mandated in Maryland, but there is currently proposed legislation that will require a health practitioner to issue a prescription electronically (HB1416). The bill also requires the Secretary of Health, in collaboration with the Maryland Health Care Commission, to adopt regulations regarding a waiver to this requirement.

Current DEA regulations specify the conditions under which controlled substance prescriptions may be issued electronically. As set forth in the regulations, before any electronic prescription or pharmacy application may be used to transmit prescriptions, a third party must audit the application for compliance with the requirements of [21 CFR part 1311](#), or a certifying organization whose certification process has been approved by DEA must verify and certify that the application meets the requirements of 21 CFR part 1311 which states;

§1311.100 General.

(b) A practitioner may issue a prescription for a Schedule II, III, IV, or V controlled substance electronically if all of the following conditions are met:

(1) The practitioner is registered as an individual practitioner or exempt from the requirement of registration under part 1301 of this chapter and is authorized under the registration or exemption to dispense the controlled substance;

(2) The practitioner uses an electronic prescription application that meets all of the applicable requirements of this subpart; and

(3) The prescription is otherwise in conformity with the requirements of the Act and this chapter.

(c) An electronic prescription for a Schedule II, III, IV, or V controlled substance created using an electronic prescription application that does not meet the requirements of this subpart is not a valid prescription, as that term is defined in [Section 1300.03](#) of this chapter.

(d) A controlled substance prescription created using an electronic prescription application that meets the requirements of this subpart is not a valid prescription if any of the functions required under this subpart were disabled when the prescription was indicated as ready for signature and signed.

(e) A registered pharmacy may process electronic prescriptions for controlled substances only if all of the following conditions are met:

(1) The pharmacy uses a pharmacy application that meets all of the applicable requirements of this subpart; and

(2) The prescription is otherwise in conformity with the requirements of the Act and this chapter.

(f) Nothing in this part alters the responsibilities of the practitioner and pharmacy, specified in [part 1306](#) of this chapter, to ensure the validity of a controlled substance prescription.

Maryland regulations (COMAR) 10.34.20.02 requires the following for electronic prescriptions;  
*10.34.20.02*

**.02 Requirements for Prescription Validity.**

A. A valid prescription shall be:

(1) Valid in the professional judgment of the pharmacist responsible for filling the prescription; and

(2) Conveyed:

(a) In a manner that contains the handwritten, pen-to-paper signature of the prescriber;

(b) In a manner that is transmitted to the pharmacy electronically, provided that the prescription is:

(i) Transmitted via electronic intermediaries that are certified by the Maryland Health Care Commission;

(ii) Received by the permit holder's computer, facsimile machine, or other electronic device; and

(iii) Maintained by the permit holder in accordance with Regulation .03 of this chapter; or

(c) In an oral manner where:

(i) Only a pharmacist may take an original oral prescription by a voice messaging system or by phone with the pharmacist reading back the prescription to the prescriber or the prescriber's agent; and

(ii) The pharmacist promptly reduces the oral prescription to writing.

B. The requirement of §A(2)(b)(i) of this regulation does not apply to prescriptions transmitted electronically within:

(1) A closed system of a group model health maintenance organization as defined in Health-General Article, §19-713.6, Annotated Code of Maryland; or

(2) Any other closed system that does not utilize an intermediary for transmission of prescriptions.

**6. HB- 88- Public Health-Prescription Drug Monitoring Program- Revisions**

The Board received a copy of HB-88-Public Health-Prescription Drug Monitoring Program- Revisions. The Bill with its revisions allows the PDMP to report possible overprescribing to the Boards as well as law enforcement agencies. The hearing for the Bill is scheduled for next week. The Board supports the Bill with the amendments.

**7. Review for eligibility for FULL License:**

**a. Michelle Le, D.P.M.**

**b. Alison D'Andelet, D.P.M.**

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

**With no further business, the Board meeting concluded at 1:48 PM.**

**Respectfully submitted,**

**Yvonne Umezurike, Secretary/Treasurer**