

BOARD OF PODIATRIC MEDICAL EXAMINERS
OPEN SESSION MEETING MINUTES
September 10, 2009

The Open Session meeting of the Maryland Board of Podiatric Medical Examiners was held on Thursday, September 10, 2009, in Room 110, 4201 Patterson Avenue. The meeting was called to order at 1:15 p.m. by President Dr. David Freedman. Board members present were Drs. Ira Gottlieb, Steven Chatlin, Jay LeBow, Tanya Sellers-Hannibal and Ms. Barbara Crosby and Mr. Jay Boyar. Also present were Eva Schwartz, Executive Director, Richard Bloom, AAG, Board Counsel and Sally Reier, Administrative Officer. Guests present were Lynda Lardner-McGinnis, D.P.M., Maryland Podiatric Medical Association (MPMA) representative, Mark Spier, D.P.M., Paula Hollinger, Associate Director of Health Work Force, and Sharon Bloom, Executive Assistant.

The Board welcomed Mr. Jay Boyar who was appointed as a consumer member to the Board.

A. MINUTES:

The minutes from the July 9, 2009 meeting were reviewed and approved as submitted.

B. OLD BUSINESS

1. Department of Legislative Services

- Preliminary Sunset Review

Ms. Schwartz informed the Board that all requested documentation had been provided to Ms. Chilson, who is completing the Board's Preliminary Sunset Review on behalf of the Department of Legislative Services. Ms. Chilson anticipates that the Board's Preliminary Sunset Review will be available in October.

2. Proposed Regulations requiring a licensed podiatrist to examine, diagnose, and determine the medical necessity to prescribe for a foot appliance

- Date of publication in Maryland Register: 7/17/2009

The Board noted that no comments were received regarding the aforementioned proposed regulations in the 30-day comment period following publication in the Maryland Register. It is anticipated that these regulations will become effective in October.

C. NEW BUSINESS:

1. 2010 Board Meeting Schedule

The Board reviewed and approved the following 2010 Board Meeting schedule:

January 14, 2010

February 11, 2010

March 11, 2010

April 8, 2010

May 13, 2010

June 10, 2010

July 8, 2010

August – No Board meeting scheduled

September 16, 2010 (Rescheduled to the 3rd Thursday for holiday observance)

October 14, 2010

November 18, 2010 (Rescheduled to the 3rd Thursday for holiday observance)

December 9, 2010

2. Budget Issues

- **FY 2009 Budget Expenditure Closure**
- **FY 2009 Revenue Collections**
- **FY 2010 Budget Adjustments**
- **FY 2011 Proposed Budget request**
- **FY 2011 Proposed Revenue collection**

Ms. Schwartz provided the FY 2009 Budget Expenditure and Revenue Collections and FY 2010 Budget Adjustments to the Board for review. Discussion of the FY 2011 Proposed Budget Request and Proposed Revenue Collection was moved to the Executive Session as this information has not been finalized and remains confidential at this time.

3. Regulations – CPR Requirement

- **Committee for Regulations**

The Board discussed the CPR requirement for license renewal and affirmed that Basic Life Support (BLS) level certification is needed. The Board discussed the enforcement of this requirement as part of the CMEs needed for license renewal. Mr. Bloom shall provide an opinion to the Board as to if regulations are needed for the enforcement of the CPR requirement.

4. Department of the Environment - New regulations regarding preventative maintenance of radiological equipment

The Board discussed that the Department of the Environment's new regulations (Supplement 17) requiring the preventative maintenance of radiation producing machines became effective July 1, 2009. The Board discussed that podiatrists need to maintain documentation of regularly scheduled maintenance according to the manufacturer's

instructions for radiological equipment. The Board determined this matter to be informational with no Board action required.

5. Proposed Regulations

- 10.13.01 Dispensing of Prescription Drugs by a Licensee

Ms. Schwartz informed the Board that she met with representatives from the Board of Pharmacy and Board of Physicians and advised same that the Board of Podiatry would be opposed to regulations which sought to limit or impose conditions on the Board's ability to issue drug dispensing permits. Ms. Schwartz stated that drug dispensing permit holders had been contacted and reminded that they must be in compliance with all the dispensing requirements as set forth in Health Occupations Article, Title 12, Annotated Code of Maryland and COMAR 10.34. A Board member requested Ms. Schwartz to notify Board members should regulations regarding same be published in the *Maryland Register*.

6. House Bill 1275 Workgroup Report

- Recommendations for Consideration

The Board reviewed the recommendations for consideration from the House Bill 1275 Workgroup. Ms. Schwartz advised that Board Administrators would be meeting with representatives from the Office of the Attorney General (OAG) on Monday and will request an opinion of the OAG regarding the collection of racial and ethnic data, the standardization of forms, and recommendations of the House Bill 1275 Workgroup.

7. Consideration for certification of practice expanders, orthotists and pedorthists

The Board discussed the possibility of certifying podiatric practice expanders noting that currently Maryland does not regulate the practice of same. The Board identified Tennessee as an example of a state that certifies practice expanders. The Board discussed possible benefits to the certification and regulation of practice expanders and requested that Dr. Lardner-McGinnis address same with the Executive Committee of the MPMA.

8. Correspondence from Vickie Schultheiss

- Podiatric assistants and nail care

The Board reviewed the correspondence from Vickie Schultheiss regarding certified podiatric medical assistants. The Board approved the motion to consider the certification of podiatric medical assistants and to request the support of the MPMA Executive Committee regarding same. Dr. Lardner-McGinnis was asked to address same with the Executive Committee of the MPMA.

9. Correspondence from Peter J. Cuesta, DPM

- Inquiry regarding Physicians Assistants – hiring and practice parameters

The Board discussed that Physician Assistants are individuals certified by the Maryland Board of Physicians to perform delegated medical acts under the supervision of a

physician. Accordingly, the Board determined that Physician Assistants are not permitted to practice under the supervision of a podiatrist. Staff was requested to send a letter to Dr. Cuesta informing him of same.

10. Correspondence from Jay S. LeBow, D.P.M.

- Inquiry regarding what is permitted to be sold thru a podiatrist's online web store or in their office

The Board discussed the sale of products by podiatrists in their offices and online through their websites. A Board member questioned if the sale of items outside of the scope of practice, e.g. wrist supports and incontinence supplies is permitted. The Board approved the motion requesting an opinion regarding the sale of out of scope products by a podiatrist and what would be required to legally differentiate sales as a non-podiatrist. Mr. Bloom was requested to provide an opinion to the Board regarding same.

11. Correspondence from Steven S. Blanken, D.P.M.

- Inquiry regarding the advertising of the use of an off-labeled product

The Board reviewed the correspondence from Dr. Blanken regarding the advertising of the use of a Food and Drug Administration (FDA) approved product in a manner for which it is not FDA approved, i.e. an off-labeled use. The Board identified contacting the FDA to ensure compliance with their requirements regarding prohibitions on promoting unapproved uses of legally marketed devices. Staff was requested to send a letter to Dr. Blanken advising him of same.

12. Correspondence from Amit Luhadiya, DPM

- Inquiry regarding CMEs

The Board reviewed the correspondence from Dr. Luhadiya and identified that the Board does not award CME credit for fellowships. The Board requested staff to send a letter to Dr. Luhadiya informing him of same and advising him that he may submit a course syllabus for consideration of CME approval for Arthrex surgical workshops that he attended.

13. OTHER: Board Members

Ms. Schwartz informed the Board that the second term of Board member Mrs. Ernestine Jones Jolivet had expired. Mr. Jay Boyar was appointed to the Board to fill this consumer member vacancy.



With no further business, the meeting was adjourned at 2:50 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 2:50 p.m., for the purpose of complying with the Maryland Medical Practice Act that prevents public disclosures about particular proceedings or matters.

Respectfully submitted,

Barbara A. Crosby, Secretary/Treasurer