

**BOARD OF PODIATRIC MEDICAL EXAMINERS**  
**OPEN SESSION MEETING MINUTES**  
**October 8, 2009**

The Open Session meeting of the Maryland Board of Podiatric Medical Examiners was held on Thursday, October 8, 2009, in Room 110, 4201 Patterson Avenue. The meeting was called to order at 1:12 p.m. by Vice-President Dr. David Freedman. Board members present were Drs. Steven Chatlin, 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 Richard Bloch, Executive Director, Maryland Podiatric Medical Association (MPMA), Paula Hollinger, Associate Director of Health Work Force, and Sharon Bloom, Executive Assistant.

**A. MINUTES:**

The minutes from the September 10, 2009 meeting were reviewed and approved as submitted.

**B. OLD BUSINESS:**

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

The Board reviewed that the effective date of the aforementioned proposed regulations will be November 2, 2009.

**2. Regulations – CPR Requirement**

- Committee for Regulations

The Board approved the motion to draft regulations requiring Cardio Pulmonary Resuscitation (CPR) Basic Life Support (BLS) certification for initial licensure and renewal of licensure. The Board identified that a maximum of three CME Category A credit hours are permitted for Board approved CPR courses. Ms. Schwartz was requested to proceed with the drafting of these regulations.

**3. Correspondence from Jay S. LeBow, D.P.M.**

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

Mr. Bloom requested that this issue be tabled to the next Board meeting.

**4. Inquiry regarding the advertising of the use of an off-labeled product**

The Board reviewed the response provided by Deborah Wolf, JD, Office of Compliance, United States Food and Drug Administration (USFDA) wherein she identified that “Practitioners are not permitted to promote off-label uses even though they can use a device off-label”.

Dr. Freedman requested that this issue be tabled to the next Board meeting and identified that he would be contacting Ms. Wolf regarding same.

## **5. Consideration for certification of practice expanders, orthotists and pedorthists**

The Board discussed the possibility of certifying practice expanders, orthotists, and pedorthists. Mr. Bloch stated that the MPMA reaffirmed its’ position of being opposed to expanding the authority of the Board. The Board discussed the possibility of certifying podiatric assistants and determined to send a letter to the MPMA requesting that the issue of certifying podiatric assistants be considered at their next meeting. Ms. Schwartz will send a letter to the MPMA requesting that this issue be added to the agenda of their next meeting.

## **C. NEW BUSINESS:**

### **1. Budget Issues**

Ms. Schwartz informed the Board that the Department of Health and Mental Hygiene (DHMH) is requesting that each licensing board voluntarily cut their budget by 3% and transfer these funds to the State General Fund. The Board discussed that our Board is 100% special funded and receives no monies from the State General Fund. The Board identified that licensing fees were increased by \$200 per licensee in December 2008 and that fees are determined by the budgetary needs of the Board. Ms. Schwartz will be drafting a response to the Department regarding this request.

### **2. License Renewal**

Staff informed the Board that license renewal notices had been mailed to all licensees and that the link to the online license renewal system is now accessible on the Board’s website. Staff reported that the Office of the Comptroller had placed tax holds on seventeen licensees that were identified with tax deficiencies. Letters have been mailed advising those identified to contact the Office of the Comptroller to resolve outstanding tax issues and obtain a release of the tax hold to allow for licensure renewal.

### **3. Correspondence from Brad A. Toll, D.P.M.**

- Inquiry regarding total ankle joint replacements

The Board reviewed Dr. Toll's correspondence and identified that total ankle joint replacement is within the scope of practice of podiatry. The Board discussed Dr. Toll's second question that since repair of acute fracture of the ankle joint is not within the scope of practice, what are the implications if the bones about the ankle were to fracture during the course of a total joint replacement procedure. The Board deferred further discussion of this matter to the next Board meeting and requested Mr. Bloom to research the legislative intent of this issue.

#### **4. Correspondence from Howard Wilpon, M. D.**

- Inquiry regarding guidance on the interpretation of "acute ankle fracture"

The Board reviewed Dr. Wilpon's correspondence and affirmed its prior determination that applying a single static timeframe to all ankle fractures is inappropriate and that sound clinical judgment applied on a case by case basis which includes the completion of a thorough clinical assessment is required. Staff was requested to send a letter to Dr. Wilpon advising him of same.

#### **5. Correspondence from Rick V. Bryson, D.P.M. re: CPT Code 11422**

- Request for Board to address the accuracy of the information that, "This procedural code identified as 11422 requires both excision and appropriate wound closure."

The Board reviewed the correspondence from Dr. Bryson regarding CPT Code 11422 and discussed that this code only requires excision and does not require wound closure. The Board identified that Dr. Bryson may obtain information regarding CPT codes by referring to the 2009 edition of the American Medical Association's Current Procedural Terminology (CPT) manual. Staff was requested to send a letter to Dr. Bryson advising him of same.

#### **6. Scope of Practice Inquiry**

- Reiteration that codes: primary L1970 and L2210 for addition to lower extremity, dorsiflexion assist (plantar flexion resist) each joint are within the scope of practice of podiatry, thus eligible for reimbursement

The Board reviewed this inquiry from Dr. Freedman and determined that CPT Codes L1970 and L2210 for addition to lower extremity, dorsiflexion assist (plantar flexion resist) each joint are within the scope of practice of podiatry. Staff was requested to send a letter to Dr. Freedman advising him of same.

#### **7. Correspondence from Mark E. Spier, D.P.M.**

- Request for Board to address the following: "Can a trained technician operate a laser under a doctor's supervision in the State of Maryland just as is allowed in DC and Virginia?"

The Board reviewed the correspondence from Dr. Spier and determined that a trained technician may operate a laser under a podiatrist's supervision. The Board identified that if billing to Medicare patients, Medicare requires the podiatrist to provide the services. Staff was requested to send a letter to Dr. Spier advising him of same.

**8. Correspondence from David Cohen, D.P.M.**

- Inquiry as to "...whether administration of the H1N1 vaccine can fall within the scope of practice."

The Board reviewed the correspondence from Dr. Cohen inquiring as to whether administration of H1N1 flu vaccinations is within the scope of practice of podiatry. Mr. Bloom advised the Board that the administration of flu shots including the H1N1 vaccine is not within the scope of practice of podiatry. Accordingly, the Board determined that the administration of flu shots is not within the scope of practice of podiatry and that Dr. Cohen may wish to contact his local health department regarding any extraordinary provisions that may be applicable to volunteers serving during declared states of emergency and/or disaster. Staff was requested to send a letter to Dr. Cohen advising him of same.



**With no further business, the meeting was adjourned at 2:24 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 2:24 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