

**BOARD OF PODIATRIC MEDICAL EXAMINERS**

**OPEN SESSION MEETING**

**MINUTES**

**December 14, 2017**

**Room 110**

**The Public Session Meeting commenced at 1:05 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, Carla Boyd, AAG, Board Counsel, Sheri Henderson, Deputy Executive Director, Elizabeth Amspacher, Licensing Coordinator, and Danielle Vallone, Board Investigator.**

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

**Representing MPMA: Richard Bloch, Esq., Executive Director, and Stacia Jones, DPM.**

**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.**

**Dr. Chatter read the COMAR Citation.**

**A. MINUTES:**

**1. Approval of minutes from the November 9, 2017 meeting**

The minutes from the November 9, 2017 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 and has moved through the Governor's Regulatory Review Office for approval, and has been submitted to AELR.

## **2. Proposed Regulation addressing Active podiatric practice- COMAR 10.40.01.02**

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 consecutive five years. The proposed regulation has been approved by MDH and has moved through the Governor's Regulatory Review Office for approval and was submitted to AELR.

## **3. Proposed Amendment to COMAR 10.40.06- Advertising Regulation**

The Board received an inquiry from the Office of Governmental Affairs regarding the proposed amendment to COMAR 10.40.06.03 asking for clarification concerning the requirement that a podiatrist refer to themselves as such; and if the requirement can be removed in its entirety. After discussion, the Board decided that the proposed regulation should move forward as is.

## **4. Updated draft of COMAR 28.04.01-.08**

The Board was given a copy of the updated draft of COMAR 28.04.01-.08 for informational purposes. Ms. Carla Boyd, AAG, Board Counsel, informed the Board that the AAG's whose clients are the Boards, will be meeting on January 8, 2018 to get a cohesive and comprehensive response to the implementation of the proposed regulations as mandated by SB 517, addressing the concern of when a complaint, or an action, or a type of action by the Board, will be reviewed by OAH. Therefore, the Board will be briefed on the proposed regulations at the next Board meeting.

## **C. NEW BUSINESS:**

### **1. State Board of Podiatric Medical Examiners – Licensure – Qualifications and Examinations**

The Board reviewed the State Board of Podiatric Medical Examiners – Licensure – Qualifications and Examinations Bill. There were no amendments; therefore the proposed Bill should move to be filed.

### **2. Board Chairs/Presidents and Executive Directors meeting with Secretary Schrader and Lieutenant Governor Rutherford, scheduled for January 8, 2018**

The Board was made aware that Dr Chatter, Board President, and Eva Schwartz, Executive Director, will be attending a meeting with Secretary Schrader and Lieutenant Governor Rutherford, scheduled for January 8, 2018.

### **3. National Practitioner Databank Updates (NPDB)**

The Board received a copy of the publication "NPDB- Is it Reportable" for informational purposes.

### **4. Inquiry about patient notification and access to medical records upon sale of practice or retirement of a practitioner**

The Board received an inquiry regarding whether or not a podiatrist has some type of legal responsibility to notify patients of a change in ownership, after a sale of a podiatric practice.

After review of the inquiry, it was advised by Board Counsel that the Podiatry Act, and the Board's regulations, do not address the issue of the "sale of" or "retiring from" a podiatry practice.

Subtitle 3 of the Maryland Medical Records Act provides:

§ 4.302. Confidentiality and disclosure generally:

...(e) Transfer of records relating to transfer of ownership of health care practice or facility.

(1) Except as provided in paragraph (2) of this subsection, a person may not disclose by sale, rental, or barter any medical record.

(2) This subsection shall not prohibit the transfers of medical records **relating to the transfer of ownership of a health care practice** or facility if the transfer is in accord with the ethical guidelines of the applicable health care profession.

The American Podiatric Medical Association Code of Ethics merely requires that all identifiable patient medical and health information be treated in strict confidence.

## **5. MHCC - Certificate of Need (CON) concerning Ambulatory Surgical Centers (ASC) in Podiatry**

Richard Bloch, representing the MPMA, discussed how current regulations require a CON if two or more podiatrists are in a group who work in an ASC. This could create issues for private practice practitioners who would like to use an ASC facility and therefore potentially dampen growth in the podiatry field. The MPMA suggested to try and remove the requirement of a CON altogether or to raise the requirement from two or more practitioners to four or five practitioners for a one suite ASC. The MPMA requested the support of the Board and stated that comments can be made to the care of MHCC and were due by January 13, 2018.

## **6. Review for eligibility for FULL License:**

### **a. Daniel Perez, D.P.M.**

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

## **7. During Meeting Added New Business:**

a. The MPMA expressed concerns about the Maryland Cannabis Commissions meeting that was held earlier that day regarding scope of practice for prescribers. Podiatrists were not invited to attend the meeting nor are they listed on the website as authorized prescribers when in fact they are. Also, it is unclear what the topic of the meeting was regarding because scope of practice had already been determined. Carla Boyd, Board Counsel, offered to bring the matter to the attention of the AAG for the Cannabis Commission.

b. The Board was presented with the current 2018-2019 licensure renewal cycle counts. As of December 14, 2017 there are 410 successfully renewed podiatrists, 12 podiatrists are converting to non-renewed status, 12 podiatrists converting to inactive status, and 12 podiatrists still pending for renewal. The Board and MPMA were also made aware that there are 18 licensees that have not made any contact at all to renew their licenses at this time. Mr. Bloch, MPMA representative, offered to inform the MPMA members of the Board's renewal of licensure status.

**With no further business, the Board meeting concluded at 2:03 PM.**

**Respectfully submitted,**

**Yvonne Umezurike, Secretary/Treasurer**