

TENNESSEE BOARD OF PODIATRIC MEDICAL EXAMINERS

**DATE:** June 4, 2014  
**TIME:** 9:00 A.M., CDT

**LOCATION:** Health Related Boards  
Poplar Room  
665 Mainstream Drive  
Nashville, TN 37243

**BOARD MEMBERS**

**PRESENT:** David Long, D.P.M., Chair  
Karl Fillauer, C.P.O, Secretary  
Lawrence Burns, D.P.M.  
Paul Somers, D.P.M.  
Paul Rivard, DPM  
Karen Garner, Citizen Member

**BOARD STAFF**

**PRESENT:** Devin Wells, Assistant General Counsel  
James Hill, Board Administrator  
Theodora Wilkins, Administrative Director

Dr. Long, Chair, called the meeting to order at 9:06 a.m. Dr. Long conducted a roll call vote. A quorum was present.

Dr. Long welcomed Mr. Devin Wells to the Department of Health, Health Related Board as the Deputy General Counsel and serves as advisory Counsel to the Board of Podiatric Medical Examiners.

**Minutes**

Dr. Rivard made a motion, seconded by Ms. Garner to approve the November 6, 2013 Board meeting minutes as written. The motion carried.

Dr. Rivard made a motion, seconded by Ms. Garner to approve the February 19, 2014 Board meeting minutes as written. The motion carried.

**Applicant Interview**

Mr. Cook appeared before the board to discuss the withdrawal of his application for licensure as an orthotist as he does not meet the educational requirements for licensure. Mr. Cook stated to the board that his training was mostly hands on and his education consisted of working under a licensed prosthetist and reading text books. In 2006 he was Board eligible thru BOC and in 2009

became BOC certified. Mr. Fillauer made the recommendation that Mr. Cook enroll in a Bachelors degree program. First he should withdraw his application then show proof of enrollment in a bachelors program, then reapply for a conditional license.

Dr. Mitchell Mutter, Medical Director of the Controlled Substance Monitoring Database (CSMD) committee was present to discuss the new Pain Management Guidelines. The Prescription Safety Act of 2012 requires that all prescribers with DEA's who prescribe controlled substances more than seven (7) days at a time look up their patient in the database. Everyone with a DEA that sees patients more than 15 days per year must be registered in the database. The statute of 2013 requires all prescribers to now have two (2) hours every cycle of continuing education regarding prescribing practices. Tennessee has mandatory registration and mandatory query. Tennessee is like two other states in the country that have this mandatory requirement and this has given us a great deal of information on how to combat the scourge of prescription drug abuse. Kentucky's is housed in the Department of law enforcement; Tennessee's is housed in the Department of Health. The guidelines are developed for chronic pain clinics. Dr. Mutter stated they have started sending out push notifications or clinical notifications so when one goes on your CSMD home page, physicians who are prescribing more than 120 morphine equivalent will get a notice. Tennessee started at two hundred because at 120 morphine equivalent we had 90,000 patients in the state of Tennessee over 120 morphine equivalent.

The Board asked if Dr. Mutter would present a course of CME to the upcoming State meeting of the Podiatric Medical Examiners.

### **Office of General Counsel Report**

There are no rule changes to report and there is no legislation enacted or pending that affects this board.

The Office of General Counsel currently has one (1) disciplinary cases pertaining to the Board of Podiatric Medical Examiners. Jack Jenson is set for the July board meeting as a contested case.

There are no Consent Orders or Agreed Orders for presentation at this time. There are no appeals in Chancery Court from the Podiatry Board.

### **Office of Investigation**

Podiatrists have no complaints at this time; X-Ray Operators currently have one open (1) case pending second review; Orthotists currently have one open (1) case pending second review; and Prosthetists currently have one open (1) case pending second review.

Ms. Moran, Director of Investigations introduced Ms. Tammy Cochnauer, Disciplinary Coordinator the Health Related Boards.

There are five (5) practitioners currently being monitored. Three (3) licenses were revoked, one (1) is a reprimand, and there is one (1) under a Board Order.

## **Administrative Report**

There are currently 246 licensed podiatrists, 138 podiatric x-ray operators, 154 orthotists, 133 prosthetists and 69 pedorthists.

2015 Board meeting Dates:

February 11, 2015

May 13, 2015

August 12, 2015

November 18, 2015

## **Financial Statement**

Ms. Crutcher presented the projections for FY June 30, 2014. The Board of Podiatric Medical Examiners projects expenditures of \$82,257.01; revenues of \$100,690.00, with a current year net of \$18,432.99, and a cumulative carryover of 189,499.28.

Ms. Crutcher discussed with the Board of the onetime cost the Board will see for 2015. The onetime cost is for the replacement of the current RBS licensure tracking system with the new Versa system. This is a cost that is spread out over all the Health Related Boards and is based on the percentage of total licensees of the respective Board. The Board of Podiatric Medical Examiners share is projected be around \$ 5000.00.

Ms. Crutcher mentioned to the board the new policy on reducing fees is that if the two year carryover is twice the amount of three years average expenditures, the Board may want to have some form of fee reduction discussion. At this time the board fees are right on the line, but it would be well to in mind there could be Legal and investigation fees in the future.

## **Legislative Update**

Valerie Nagoshiner, Assistant Commissioner for Legislative Affairs spoke regarding new legislative updates. The first piece of legislation will allow initial licensure applications to be accepted on line. Language in the statues will need to be changed to allow online signatures, and modifications will need to be made to the current RBS system. The second piece of legislation deals with the controlled substance data base update of 2012. The statute was formerly silent as to those practitioners who chose to print the CSMD report for a patient and it was silent as to what to do what the report. New language in the statute will make that report part of the medical record and be protected by all HIPPA regulations and privacy acts.

The next law is regarding the “naloxone rescue act.” Naloxone is a opiate antagonist designed to stop the effects of an opiate drug related overdose. The law is to provide immunity to physicians who prescribe controlled substances. If they are prescribing to someone, or if a family member of someone on drugs came to the physician about a family member abusing drugs and asked the physician to write a prescription for naloxone to keep and administer in order to prevent death.

The next law revises the professional privilege tax for the Department of Revenue delinquent provision part of the bill. The new law requires professional privilege taxpayers that are 90 days or more delinquent to pay their professional privilege tax before they may renew their professional license. This law does not apply in situations where delinquent taxpayers have entered into a payment plan agreement with the Department of Revenue, have requested an informal review conference or have filed suit. This law became effect April 24, 2014.

The last bill that was part of the Governor's administrative bills was the Anti-Meth production bill. It caps the sale purchase of epinephrine or pseudoephedrine products at 5.76 grams per month or 28.8 grams per year per person. The cap will not apply to a person with a valid prescription from a practitioner authorized to prescribe and no person under the age of 18 may purchase the product except pursuant to a valid prescription from a practitioner or a pharmacist generated prescription. This will become effective July 1, 2014.

Identification for controlled substances would require a patient to show identification when picking up a controlled substance. Some exceptions are: if you are in a hospital or dispensed a sample or if you are receiving the prescription in a nursing home, mental health, or correctional facility. Civil penalties would be assessed for violations. No disciplinary action can be taken under this law. The concern is under the meth law you have to show identification, but if you picked up a controlled substance you did not have to show identification so they are trying to marry those two laws.

New limitations on scheduling prescribing requiring health care practitioners to notify appropriate licensing boards within 10 days if they start or end employment at a pain clinic; requires pharmacy wholesalers to notify the Board of Pharmacy and the prescribing board when a suspicious order is discovered; must report a theft or significant loss of controlled substances to the CSMD committee and law enforcement within one (1) business day; requires all opioid and benzos not following under the exceptions to be returned to the distributor or local law enforcement by January 11, 2015. Requires wholesalers to buy back dispensed inventory. This law will become effective January 1, 2015.

In addition, after the session ended but before the Governor signed, was prosecution of a female after delivering a baby who had signs of neo-natal abstinence syndrome. This law allows for prosecution if the mother was illegally using narcotics. It is limited to the A misdemeanor charge. It is affirmative defense for the mother if she was enrolled in a recovery program prior to the birth and successfully completes the program. This helps connect a program that passed the year before currently known as the safe harbor act.

CSMD reporting in the prescription safety act currently requires dispensers to report at least weekly and by January 1, 2016 reporting will move to every 24 hours.

### **Agreed Citation**

Dr. Rivard made a motion, seconded by Dr. Burns, to approve the Agreed Citation of **Lennie Fur, Pedorthist** for an expired license. The motion carried.

Dr. Rivard made a motion, seconded by Dr. Burns, to approve the Agreed Citation of **Stacey Argo, Podorthist** for an expired license. The motion carried.

**Application Review**

Dr. Rivard made a motion, seconded by Mr. Fillauer to approve the application of **Dr. Adam Hicks** as a podiatrist, pending receipt of the exam results from the ABPS for licensure. The motion carried.

Dr. Rivard made a motion, seconded by Dr. Burns, to approve the following application for certification as a Podiatrist. The motion carried.

**Peinnah Kumar  
Royden Stanford  
Timothy Bush**

Dr. Burns made a motion, seconded by Mr. Fillauer to approve the following applications for certification as a X-Ray Operator. The motion carried.

**Ashley Garcia  
Julia Pruitt  
Linda Palmer  
Timothy Conover**

**Brittany Banks  
Kendra Johnson  
Rebakah Guffee**

Mr. Fillauer made a motion, seconded by Dr. Burns, to approve the following application for licensure as an Orthotist. The motion carried.

**Jacob Kramer  
Michael McCauley  
Samuel Hale**

**Lucas Boe  
Richard Babcock**

Mr. Fillauer made a motion, seconded by Dr. Burns, to approve the following application for licensure as a Prosthetist. The motion carried.

**Carolyn Scott  
Samuel Hale**

**Joseph Raub**

**Reinstatement Review**

Dr. Burns made a motion, seconded by Mr. Fillauer, to approve the reinstatement application of **Heather Lynn Scheer** as a certified X-Ray Operator. The motion carried.

### **Correspondence**

The Board reviewed correspondence from **Edwin Downs**, stating that Alabama and Kentucky require orthotic fitters to be certified with the ABC or BOC and asked why doesn't Tennessee require these certifications. Mr. Fillauer stated that Tennessee does require fitters to be certified by the ABC and BOC. Mr. Downs asked if an ABC or BOC Certified Orthotist decides not to be licensed in Tennessee, what restrictions are placed on him besides not being able to make a mold? Is he an orthotic fitter or can he fit custom fitted devices? And how can Tennessee allow a person to become a qualified orthotic fitter with only one hour less of documented training and employed by a pharmacist or home health provider? Mr. Fillauer stated that a certified orthotist not being licensed, and still being able to fit custom devices cannot happen unless they are licensed to fit custom devices. A certified orthotist meets the criteria of an orthotic fitter and surpasses it, but they would be under the same as any other orthotic fitter if they are not a licensed Orthotist. The Board directed Mr. Fillauer to confer with Mr. Wells on language in drafting a response to Mr. Downs.

The Board reviewed the request of **Grady Fletcher**, Pedorthitst, asking for a waiver of his 2011-2012 continuing education. The Board stated they cannot waive continuing education based upon the age of a licensee.

The Board reviewed the correspondence from **H.H.Nuss, DPM. P.C.** Review of the request showed the courses were related to practice management not medicine. The Board agreed to approve the course for three hours.

The Board reviewed the request of the Kstar continuing education program at the Texas A & M Health Sciences Center. The Board determined that the course will suffice for two hours of CME credits.

The Board discussed drafting a policy regarding the purchase and use of Canthron. Dr. Rivard made a motion, seconded by Mr. Fillauer that it is permissible to order, use, and dispense Canthron by a Podiatrist. The motion carried.

### **Other Board Business**

At this time the Board has initially approved any continuing education meeting the one (1) hour continuing education prescribing practices requirement.

With no other Board business Ms. Garner made a motion, seconded by Dr. Burns, to adjourn at 11:05AM. The motion carried.

Adopted by the Board of Podiatric Medical Examiners on this the 30th day of July, 2014.