

**MEETING MINUTES
TENNESSEE BOARD OF PODIATRIC MEDICAL EXAMINERS**

DATE: May 28, 2021
TIME: 9:00 A.M., CST
LOCATION: Health Related Boards
Iris Room
665 Mainstream Drive
Nashville, TN 37243

BOARD MEMBERS

PRESENT: Sheila Schuler, D.P.M. - Chair
David Sables, D.P.M.
Ramesh Pavuluri, D.P.M.
Bhekumuzi Khumalo, C.P.O
Gerald Stark, PhD, MSEM, CPO
Martha Kay Oglesby, Consumer Member

BOARD MEMBERS

NOT PRESENT: Martha Kay Ogles, Dr. Bhekumuzi Khumalo

BOARD STAFF

PRESENT: Mrs. Diana Hunley, Regulatory Board Administrator Director II
Doris VanOvermeiren, Board Administrator 1
Kaitlin Parham, Assistant General Counsel
David Silvius, Office of General Counsel

Ms. VanOvermeiren read the opening remarks into the record. She asked everyone to introduce themselves for the record. Ms. VanOvermeiren introduces the new Board Director Mrs. Diana Hunley and Mrs. Kaitlin Parham, Assistant General Counsel. A roll call vote was conducted, and all Board members were present. The quorum is established.

Dr. Schuler called the meeting to order at 9:00 a.m. Dr. Schuler opens the meeting with the review of the November 6, 2020 and February 5, 2021.

Review/Approve Board Meeting Minutes

Upon review of the Board meeting minutes for November 6, 2020 Dr. Sables made a motion to approve the November 6, 2020 minutes if the correction is made on the third page, paragraph concerning the discussion to correct the name to Mr. Silvus, seconded by Dr. Stark. A roll call vote was conducted. All approved. The motion carried.

Upon review of the Board meeting minutes for February 5, 2021 Dr. Sables made a motion to approve, seconded by Dr. Stark. A roll call vote was conducted. All approved. The motion carried.

Investigative Report:

Mrs. Courtney Lillie the assistant for Ms. Lori Leonard, Disciplinary Coordinator for all non-nursing Boards gave the following report:

Summary of Currently Monitored Practitioners

Currently for the year 2021 are monitoring zero (0) under a Board Order reprimand, Three (3) under probation, Two (2) under suspension and five (5) under Revoked status.

Board Statistical Complaint Report for Podiatrist: For new complaints received in the office for Investigation and complaints for the year 2021, there are three (3) new open complaints. One (1) for malpractice and negligence, one (1) for unprofessional conduct, and one (1) regarding COVID 19. A total of three (3) complaints were closed. Of the three (3) were closed due to insufficient evidence and one (1) closed with no action, currently there are nine (9) open complaints pending review and/or investigation.

X-Ray Operators: For new complaints received in the office for Investigation and complaints for the year 2021, there were zero (0) new open complaints; and zero (0) complaints were closed. There are currently zero (0) complaints that are being investigated and or reviewed at this time.

Orthotist: No new complaints in 2021, no closed complaints and zero complaints currently opened to be investigated and or review at this time.

Prosthetics: No new complaints in 2021, one (1) closed complaint closed due to insufficient evidence and zero complaints currently opened to be investigated and or review at this time.

Pedorthist: There are no new complaints in 2021, no closed complaints and no complaints opened to be investigated and or review at this time.

Financial Report:

Mr. Mathew Mc Spadden gave the financial report and states as a reminder the fiscal year report runs from July 1st, 2020 thru June 30th, 2021. Mr. McSpadden presented the financial report for the mid-year July 1st, 2020 thru December 31st, 2020 as the projection for the mid-year ending with the projections for the end of the fiscal year 2021. Revenue for the years 2019, 2020, 2021 to project an estimate for the end of the fiscal year for June 30th, 2021. Below is the TN Board of Podiatry Actual Revenue and Expenditures for Fiscal Year ending June 30, 2021 summarized chart.

Tennessee Board of Podiatry	
Analysis of Operating Expenditures and Carryover Balance	
FY2017 Operating Expenditures	\$ 80,522.82
FY2018 Operating Expenditures	\$ 80,659.77
FY2019 Operating Expenditures	\$ 96,435.54
3 Year Average of the Annual Operating Expenitures	\$ 85,872.71
2 Times 3 Year Average of the Annual Operating Expenitures	\$ 171,745.42
2019 Cumulative Carryover Balance	\$ 327,740.30
FY2018 Operating Expenditures	\$ 80,659.77
FY2019 Operating Expenditures	\$ 96,435.54
FY2020 Operating Expenditures	\$ 121,324.07
3 Year Average of the Annual Operating Expenitures	\$ 99,473.13
2 Times 3 Year Average of the Annual Operating Expenitures	\$ 198,946.26
2020 Cumulative Carryover Balance	\$ 270,577.72
Cumulative carryover exceeds two times the three-year average of operating expenditures.	

Mr. McSpadden questions the board for information concerning the expenditure for the year 2020 for Professional Services and Dues of \$22,770.67. Mr. McSpadden explains that he has researched the expenditure and found no explanation. The Board chair Dr. Schuler ask if it is a possible typing error. Mr. McSpadden and the board discuss the anomaly of the Professional Services and Dues. Ms. Parham offers the suggestion of past conferences of 2019. Mr. McSpadden and the board discuss the drop of Revenue for the year of 2020 and plains to research the reasons as to what occurred. Mr. McSpadden discusses the scenarios for Cumulative Carryover Balance that exceeds the fee structure. Mr. McSpadden explains the scenarios followed by the charts to the board for the spend down for the Cumulative Carryover Balance and the 2-6 year spend down. Mr. McSpadden discusses lowering of the application and renewal fees. Dr. Schuler expresses concern about consent order cases that are with the Office of General Counsel and being aggressive with the raise of the expenditures. Mr. McSpadden assures the board of the carryover balance reserve will be sufficient to cover the expenditures for the 2 year reductions. Mr. McSpadden discusses the neutral fee structure and that a vote would be required to change the rule to start the required fee reduction process, and a vote again in the future to change the rule back to normal. The Fiscal office would monitor the process. Fiscal Office would monitor the fees and let the board know when it is time to change the rule back to the regular process. Ms. Parham explains to the board what the procedure is when the board working in the red, and a possible hearing with legislation concerning the revenue. Mr. McSpadden assures the board with that as a possibility the Fiscal Office will give the explanation of the fee reductions and revenue for the board to legislation. Mr. McSpadden and the board discuss the reduction of the fees for Podiatry, X-ray, Orthotist, Prosthetics and Pedorthist. Dr. Schuler asks for a motion to approve the reduction of the fees. Mr. McSpadden ask which scenario 2, 3,4 would the board chose for the fee's reduction. Dr. Schuler, Dr. Sables and Dr. Stark review the fee structure. Mrs. Parham asks Mr. McSpadden to discuss number 3 scenario before a final vote for the record. Mr. McSpadden gives the scenario reductions for renewal fee's as follows, Podiatrist \$35.00, Podiatric X-ray Operators \$10.00, Orthotist \$35.00, Prosthetics \$35.00 and Pedorthist \$35.00. Dr. Sables makes a motion for scenario number 3 that consists of all 4 professions for the fee reductions seconded by Dr. Stark. A roll call vote was conducted. All approved. The motion carried
Dr. Schuler asks Mr. McSpadden who will monitor the finial changes. Mr. McSpadden replies that it would be himself and Ms. Alicia Grice Fiscal Director and will notify the board with occurring information.

Office of General Counsel:

Mrs. Kaitlin Parham with the Office of General Counsel (“OGC”), presented the OGC report. She read aloud the Conflict of Interest Policy and the Open Meetings Act. She then addressed disciplinary and rule activity.

Rule Activity:

The rule status for the February 2018 board meeting indicated that for none DPM should have similar rule as podiatrist for record keeping. The rule language was voted on by the board at the May 2018 meeting and finalized and sent to the Sectary of State office and approved for filing. The rule hearing was conducted, the rule packet was approved by the Governor's office, and Attorney General office. On May 7th, 2021 the rule packet was filed with the Sectary of State office. 30 days prior to the effective date beginning June or July 2021 there will be a Joint Operations Committee meeting including one Board staff, board member and OGC. Government Operations will question the changes made to the rule and approve the changed rule. The rule will be in effect August 5th, 2021.

Legation Report:

No litigation at this time. No current appeals and no civil suites.

Disciplinary Activity:

Mrs. Kaitlin Parham, states there are 8 open complaint cases, seven (7) respondents that hold DPM licenses and one (1) respondent is an Orthotist. Seven cases have been issued the 327 letter and consent order sent, two cases of notice of charges filed, one case is set to be presented at the July 30th, 2021 board meeting. Mrs. Kaitlin Parham is currently working with expert witnesses on three of the cases before formal charges are made. The remaining cases can be resolved before retaining an expert to file formal charges.

Administrative Report:

Doris VanOvermeiren provided the following administrative report:

As of May 28, 2021, there is a total of 295 licensed Podiatrist, licensed Podiatry X-ray Operators is 126, licensed Orthotist is 146, licensed Prosthetics is 143 and licensed Pedorthist is 39.

Newly licensed

February 3, 2021, thru May 25, 2021

8 new Podiatrist, renewed 37, expired 4, Podiatry X-ray Operators is 0 new operator, 14 renewed, 0 retired, 9 expired. Orthotist, 1 new license, reinstate 1, renewed licensed 16, 0 retired, 4 expired. Prosthetics is 2 new licenses, 1 reinstate, 17 renewed, 0 retired, 3 expired and Pedorthist 0 new reinstate 0, renewed licensed 6, 0 retired, 4 expired.

Review Application.

Dr. Schuler advises the board about reviewing application files in the future with the ending of her term with the board. Dr. Schuler ask for those that review the files to pay close attention to the documents listed and not just check list page. Dr. Delois Hurst file is not in consistency with the requirements needed per the rules, the background check showed a DUI that Dr. Hurst complied and resolved in the other state. The reference letters were not dated and signed and reaccommodated her for a residency. The reference letters in question were from 10 years ago to recommend her to go to a residency. The letters were not for a completed one year residency. The reference letters were vague on a one year residency that is completed. Dr. Schuler had contacted the residency director and was informed as to why Dr. Hurst left and was told she would need to write and request information. There were two residency letters from two different states not completed for a two or three year residency. Dr. Schuler states that Dr. Hurst must show proof of completion of a one year residency. Dr. Schuler explains she is not comfortable approving Dr. Hurst application based on the DUI, not completing her 2 or 3 residency after one year, with questions concerning the two different residency's Dr. Hurst did not complete, and letters from 10 years ago. Dr. Schuler ask the board for their advice on the approval. Dr. Sable asks for a completion of a one year residency. Dr. Schuler explains the previous director stated rules needs to be change because the one year residency no longer exists and that in the rule it was not meant say to complete just the one year residency. Dr. Schuler ask the board for these rules to be brought to the next board meeting. Dr. Sable ask the board counsel Mrs. Parham for advice on the situation. Mrs. Parham discusses the findings in the file and information concerning disciplinary actions from another state, also the DUI conviction. Dr. Schuler, Dr. Sable and Mrs. Parham agree to table

the discussion to the July 30th, 2021 board meeting. Dr. Schuler ask that when contacting Dr. Hurst to provide current reference letters signed and dated with the proof of the one year residency.

Dr. Sable made a motion to table the approval of Dr. Hurst application to the July 30th board meeting, seconded by Dr. Pavuluri, the motion carried.

Newly Licensed Podiatrist

Dr. Adubo
Dr. Bestress
Dr. Davis
Dr. Green
Dr. Haye
Dr. Coffman
Dr. Johnson
Dr. King
Dr. Roland

Dr. Sables ask made a motion to approve the newly licensed Podiatrists, seconded by Dr. Pavuluri. The motion carried.

Podiatric X-Ray Operators

None at this time.

Reinstated Podiatric X-Ray Operators

None at this time.

Orthoptists

Author Clobas

Dr. Pavuluri made a motion to approve the Orthoptists, seconded by Dr. Sables The motion carried.

Reinstated Orthoptists

Adam Fann

Dr. Pavuluri made a motion to approve the Orthoptists, seconded by Dr. Sables. The motion carried

Prosthetists

Jeff Effenburg

Dr. Pavuluri made a motion to approve the Prosthetists, seconded by Dr. Sables . The motion carried.

Reinstated Prosthetist's

Adam Fann

Dr. Stark made a motion to approve the Reinstated Prosthetists, seconded by Dr. Sables. The motion carried.

Rulemaking Activity

Mrs. Kaitlin Parham reflects on the discussion of the medical records for the none DPM and the Government Operations Committee hearing for the date and chose the board member and staff that will attend. The fee reduction update in July. Dr. Schuler brings the discussion of a rule change concerning the virtual CME and considering the changes made during COVID 19 with the rules and regulations. Dr. Schuler discusses how the virtual CMEs was beneficial during 2020 and needs to be implemented for future use. Dr. Schuler asks if the virtual can be voted on, Mrs. Kaitlin Parham informs the board the rule change will need to be tabled and placed on the next board meeting agenda. Dr. Schuler ask that the virtual CMEs be placed on the next board meeting Agenda.

Board Meeting Dates

November 5, 2021

Other Board Business

Mrs. Parham discusses the FRAB conference with the board and ask the board to vote on the conference.

Dr. Sables made a motion to approve the FRAB conference regulatory law conference, seconded by Dr. Pavuluri the motion carried.

Mrs. Parham discusses the screening panel with the board and how it works and gives the board the names of the list, Dr. Oliver, Dr. Walker, Dr. Schulman Mrs. Parham ask the board for a board member to assist, Dr. Pavuluri volunteers. Dr. Schuler ask to approve the list.

Dr. Sables made a motion to accept the list of participants seconded by Dr. Stark. The motion carried.

Dr. Schuler discusses what needs to be done after her leave for the new Board chairman. The board discusses to elect an acting board chair until the next board chair. Dr. Schuler makes a motion to elect Dr. Pavuluri as Board Chairman.

Dr. Schuler makes a motion to elect Dr. Pavuluri as the new Board Chairman and Dr. Sables as the Vice Chairman. seconded by Dr. Stark. The motion carried

Adjournment

Dr. Sables made a motion to adjourn the meeting at 10:55 a.m., seconded by Dr. Pavuluri. The meeting adjourned.

Ratified by the Board of Podiatric Medical Examiners on July 30, 2021