

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

DATE: August 9, 2019
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
Tyrone Davis, D.P.M. – Vice Chair
David Sables, D.P.M.
Ramesh Pavuluri, D.P.M.
Michael Fillauer, C.P.O., - Secretary
Martha Kay Oglesby, Consumer Member

BOARD STAFF

PRESENT: David Silvus, Assistant General Counsel
Sharonda Thompson, Board Administrator
Latonya Shelton, ASA3
Theodora Wilkins, Administrative Director

Dr. Schuler called the meeting to order at 9:00 a.m. A roll call vote was conducted and all Board members were present. Sharonda Thompson was introduced as the new board administrator.

Minutes

Upon review of the May 10, 2019 minutes, Dr. Sables noted there was not a vote made on the motion made to send Dr. Davis to attend the FARB conference. The motion to approve was made by Dr. Sables and seconded by Mr. Fillauer; motion to approve; all voted in favor; motion carried. Ms. Oglesby moved to accept the minutes, seconded by Dr. Sables. All in favor. The motion carried.

Investigative and Disciplinary Report

Ms. Lori Leonard reported that from June to date the Office of Investigations received three (3) new complaints for Podiatrists; there were no complaints for Podiatric X-ray Operators, Prosthetists, Orthotists, or Pedorthists.

Ms. Leonard further reported she is monitoring one Podiatric X-Ray Operator under a reprimand; two (2) licensees under probation; and five (5) have been revoked.

Legislative Report

Mr. Patrick Powell, Legislative Liaison, delivered the report of legislation action which took place during the last legislative session.

Legislative Update 2019: Podiatric Board

Public Chapter 61

This act states that an entity responsible for an AED program is immune from civil liability for personal injury caused by maintenance or use of an AED if such conduct does not rise to the level of willful or wanton misconduct or gross negligence.

This act took effect on March 28, 2019.

Public Chapter 117

This act adds a definition of “alternative treatments” to 63-1-164 pertaining to the restrictions and limitations on treating patients with opioids.

This act took effect April 9, 2019.

Public Chapter 124

This act makes a variety of small changes and additions to the TN Together opioid initiative put in place in 2018. One addition is allowing access to CSMD data to a healthcare practitioner under review by a quality improvement committee (QIC), as well as to the QIC, if the information is furnished by a healthcare practitioner who is the subject of the review by the QIC.

The requirement for e-prescribing of all schedule II substances by January 1, 2020 has been delayed to January 1, 2021 and is modified to require all schedule II through V prescriptions to be e-prescribed except under certain circumstances. The law also requires all pharmacy dispensing software vendors operating in the state to update their systems to allow for partial filling of controlled substances.

Definitions are given by this act to the terms palliative care, severe burn and major physical trauma. Along with its new definition, palliative care has now joined severe burn and major physical trauma as an exception to the opioid dosage limits otherwise required under TN Together.

An unintended consequence of last year’s Public Chapter 1039 was on cough syrup. This act establishes that the law does not apply to opioids approved by the FDA to treat upper respiratory symptoms or cough, but limits such cough syrup to a 14 day supply.

Also changed from last year’s act is the requirement to partial fill. Partial filling of opioids is now permissive.

Finally, the opioid limits under have been simplified from the previous year's act. The twenty day supply and morphine milligram equivalent limit has been eliminated. Three day and ten day requirements remain the same. Instances such as more than minimally invasive surgery, which previously fell under the twenty day provision, now can be treated under the limits of the thirty day category.

This act took effect on April 9, 2019.

Public Chapter 144

This act amends the Prevention of Youth Access to Tobacco and Vapor Products Act by limiting the places in which one may use vapor products. The act defines vapor products and prohibits the use of such products in a number of locations including child care centers, group care homes, healthcare facilities (excluding nursing homes), residential treatment facilities, school grounds, and several other areas. Several locations have specific exceptions set forth in the statute.

This act took effect on April 17, 2019.

Public Chapter 195

The majority of this act pertains to boards governed by the Department of Commerce and Insurance. One small section applies to the health related boards. Currently, the health related boards have an expedited licensure process for military members and their spouses. Previously, a spouse of an active military member had to leave active employment to be eligible for this expedited process. This act removes that requirement. This section applies to all health related boards. The Commissioner of Health is permitted to promulgate rules, but rules are not needed to implement the act.

This act takes effect July 1, 2019.

Public Chapter 229

This act allows healthcare professionals to accept goods or services as payment in direct exchange of barter for healthcare services. Bartering is only permissible if the patient to whom services are provided is not covered by health insurance. All barter accepted by a healthcare professional must be submitted to the IRS annually. This act does not apply to healthcare services provided at a pain management clinic.

This act took effect April 30, 2019.

Public Chapter 243

This act mandates that an agency that requires a person applying for a license to engage in an occupation, trade, or profession in this state to take an examination must provide appropriate accommodations in accordance with the Americans with Disabilities Act (ADA). Any state agency

that administers a required examination for licensure (except for examinations required by federal law) shall promulgate rules in regard to eligibility criteria. This legislation was introduced to assist individuals with dyslexia.

This act took effect May 2, 2019 for the purpose of promulgating rules, and for all other purposes, takes effect July 1, 2020.

Public Chapter 264

This act permits the attorney general, reporter, and personnel to access confidential data from the Controlled Substance Monitoring Database upon request for the purposes of investigation or litigation of a civil action. Release of this information to other parties must be accompanied by an appropriate protective order. This bill was brought by the Office of the Attorney General.

This act took effect April 30, 2019.

Public Chapter 327

This act requires the Commissioner of Health, by January 1, 2020, to study instances when co-prescribing of naloxone with an opioid is beneficial and publish the results to each prescribing board and to the board of pharmacy. The findings shall be included in the chronic pain guidelines adopted by the Chronic Pain Guidelines Committee.

This act took effect May 8, 2019.

Public Chapter 447

This act permits law enforcement agencies to subpoena materials and documents pertaining to an investigation conducted by the Department of Health prior to formal disciplinary charges being filed against the provider. This bill was brought by the Tennessee Bureau of Investigation.

This act went into effect May 22, 2019.

Office of General Counsel Report

Mr. David Silvus, Office of General Counsel, reviewed the conflict of interest policy stating:

“If you have a personal or financial interest in the outcome of any issue or matter before this board which may suggest a bias on your part, you are asked to state that interest on the record so that a determination can be made as to whether there exists a need for recusal. You are reminded that it is the duty of this board to protect the health, safety and welfare of the citizens of Tennessee and that the administration of this solemn responsibility is dependent upon avoiding even the appearance of impropriety.”

RULES

The Rule regarding record-keeping for podiatrists and the revisions to the Rule regarding the length of time that testing is valid were approved by the Joint Government Operations Committee on July 24, 2019.

At the February 2018 meeting, the Board indicated that non-DPM licensees of the Board should have a similar Rule as podiatrist for record-keeping. This rule language was voted on by the Board at its last meeting. It was finalized and sent to the Secretary of State's office and was approved. There will be a formal rule making hearing on the November Board meeting.

The General Assembly passed legislation requiring that reasonable accommodation be provided for all applicants who are tested in the application process. For those tests not administered by the Department, reasonable accommodation will be included in the procurement process. For those tests administered by the Department, such as the jurisprudence portion of our test, rules 2 are required. The specific rule will be promulgated by HRB for all such examinations. We need to authorize that by resolution at this meeting.

A new rule has been approved governing the minimum discipline for practitioners who over-prescribe. This was from the Task Force that we were required to nominate a delegate late last year. The Rule has been approved and codified at 1155-02-.24, which should be included in your Board packet. It requires no action on our part, but is something that the board should be aware of moving forward.

LITIGATION

The Office of General Counsel currently has four open cases pertaining to four respondents who hold DPM licenses. A 320c notice letter has gone to all. A formal notice of charges has been filed on one, which was originally scheduled to start today. It was continued, however, by agreement of the parties to allow our expert to review additional charts obtained from the Respondent. Of the remaining 3, we are awaiting an expert review on one, another may also require an expert review, and the third came over from investigation on April 30, 2019. The third was thought to have been resolved for presentation at this meeting, but hit a last-minute snag with opposing counsel.

Administrative Report

Ms. Thompson gave the administrative report stating as of August 6, 2019 there are 279 active Podiatrists; 136 active X-ray operators; 150 active Orthotists; 140 active Prosthetists and 43 active Pedorthists. Between May 10, 2019 and August 6, 2019 the following occurred: Podiatrists – 9 new, 12 renewed, 0 retired, 1 expired; Podiatric X-Ray Operators – 5 new, 9 renewed, 2 retired, 2 expired; Orthotists – 3 new, 11 renewed, 0 retired, 2 expired; Prosthetists – 3 new, 7 renewed, 0 retired, 3 expired; Pedorthists – 1 new, 4 renewed, 0 retired, 0 expired.

Ms. Thompson said the Board meeting dates for **2020** are as follows:

February 7, 2020
May 15, 2020
August 14, 2020
November 6, 2020

Newly Licensed

Podiatrists

860	Barksdale James David
862	Dijour Francois Victor
857	Gremillion Jared Todd
861	Hill Joshua Lee
859	Patel Naren
850	Reper Louis Isaac
852	Rohr Zachary Adam
855	Walker Scott David

Ms. Oglesby made a motion to approve the newly licensed Podiatrists, seconded by Mr. Fillauer. All voted in favor. The motion carried.

Podiatric X-Ray Operators

463	Hale Taylor Nicole
469	Jones Krisryn Nicole
453	Large Brittany Nicole
466	Nicholls Sherrol Venette
468	Tipton Jessica Marie

Dr. Davis made a motion to approve the newly licensed Podiatric X-ray Operators, seconded by Ms. Oglesby. All voted in favor. The motion carried.

Orthotists

267	Hefferan Kelly Ann
265	Pung Kaitlyn Cristine

Mr. Fillauer made a motion to approve the Orthotists, seconded by Ms. Oglesby. All voted in favor. The motion carried.

Prosthetists

253	Cislaghi Darla Sue
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252
256

Fann Adam Lee
Pung Kaitlyn C.

Mr. Fillauer made a motion to approve the Prosthetists, seconded by Dr. Pavuluri. All voted in favor. The motion carried.

Pedorthist

129

Spence Jeffrey Levi

Mr. Fillauer made a motion to approve the Pedorthists, seconded by Ms. Oglesby. All voted in favor. The motion carried.

Reinstated Podiatrist

741 Hasler Phillip W.

Mr. Fillauer made a motion to approve the reinstated Podiatrists, seconded by Ms. Oglesby. The motion carried.

File Review

Ms. Darla Cislighi applied for licensure as a Prosthetist as well as an Orthotist. After review of both files, the board determined Ms. Cislighi met the requirements for a Prosthetist, but did not have the required education necessary for licensure in Tennessee as an Orthotist. The board gave Ms. Cislighi the option of withdrawing her Orthotist application.

Mr. Fillauer stated it would be good to check into alternative pathways for licensure for individuals licensed for many years in other states who did not meet the current qualifications in Tennessee. Mr. Silvus stated there is not a way to grant a license at this time due to the missing education. Ms. Wilkins asked whether it would be a legislative change or rulemaking change to allow reciprocity for this profession.

Dr. Dwayne Jacobus is applying for licensure and has part 3 Exam scores older than five (5) years. He is currently licensed in South Carolina since 2001. It was brought to the board's attention Dr. Jacobus has disciplinary action on his license. In an Interim Order from 2014 Dr. Jacobus' license was reinstated from suspension. Dr. Schuler suggested deferring this application to the next meeting in order to receive more information. The motion was made by Dr. Sables, seconded by Ms. Oglesby. All voted in favor. Motion carried.

Other Board Business

Dr. Schuler requested to have advance notice of elections if new members are appointed. There was discussion about new members and re-appointments. Ms. Wilkins stated she has not been informed yet of new members or re-appointments. Mr. Silvus stated it is best to wait on new officer elections until new members or re-appointments are decided by the governor.

Dr. Davis requested a change in the wording of the application pertaining to members of the military. Mr. Silvus replied to the comment and stated the wording in question is correct pursuant to the statute. Ms. Wilkins stated very few applications ask for the expedited military qualification.

Other Business

Ms. Wilkins brought a file for Mr. Fillauer to review and asked him to approve Mary Litteral Jackson for licensure as a Prosthetist. Mr. Fillauer made the motion to approve seconded by Dr. Sables. All voted in favor. Motion carried.

Ms. Wilkins was questioned by Dr. Davis whether or not any new appointments to the board had been made. Ms. Wilkins stated she had not been informed of any new or reappointed members.

Adjournment

Dr. Pavuluri made a motion to adjourn the meeting, seconded by Mr. Fillauer. All voted in favor. Motion carried. The meeting adjourned.

Ratified by the Board of Podiatric Medical Examiners on November 1, 2019