

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

**DATE:** August 14, 2020  
**TIME:** 9:00 A.M., CDT  
**LOCATION:** Health Related Boards  
WebEx Meeting  
Poplar Room  
665 Mainstream Drive  
Nashville, TN 37243

**BOARD MEMBERS**

**PRESENT:** Sheila Schuler, D.P.M. - Chair  
Bhekumuzi Khumalo, D.P.M.  
David Sables, D.P.M.  
Gerald Stark, Ph.D, Prosthetist  
Ramesh Pavuluri, D.P.M.  
Martha Kay Oglesby, Consumer Member

**BOARD MEMBERS** None  
**ABSENT:**

**BOARD STAFF**

**PRESENT:** David Silvus, Assistant General Counsel  
Teddy Wilkins, Administrative Director  
Doris VanOvermeiren, Board Administrator 1

Due to gathering restrictions imposed by the Covid – 19 virus, it was necessary to conduct this meeting telephonically. Ms. Wilkins read the required script into the record, noting all votes must be conducted by roll call. Ms. Wilkins called a roll call vote to establish a quorum. All members were present. Another preliminary vote was taken to establish all members were able to hear each other and also that they had received meeting documents prior to the meeting. A motion was made by Dr. Schuler seconded by Dr. Sables to proceed with the meeting via WebEx. A roll call vote was taken all present voted in favor; the motion carried. The meeting was turned over to Dr. Schuler, Board Chair.

## **CSMD Report**

Dr. David Bess provided the board an update on CSMD Integration into provider workflow. The Tennessee Department of Health has contracted with Appriss, Inc. to integrate CSMD information into Electronic Health Records (EHRs) and Pharmacy Management Systems using Appriss Health's PMP Gateway service. The workflow integration will, in many cases, eliminate the need for providers to navigate to the CSMD website, log in, and enter their patient's information. Instead, controlled substance prescription records may be obtained within the clinical workflow. Currently several sites are live and the early feedback to the CSMD program is very positive. Dr. Bess encouraged those interested to check out the Integration link on the CSMD Tennessee Department of Health website for more information. The CSMD team is available to assist with the process as needed.

## **Office of Investigations Report**

Ms. Lori Leonard Disciplinary Coordinator for all non-nursing Boards in the Office of Investigations gave the following report:

### **Summary of Currently Monitored Practitioners**

I am currently monitoring three (3) podiatrist three (3) on probation, two (2) suspended and six (6) that have been revoked.

### **Complaints-Podiatrist**

For the year of 2020 Investigations received and opened six (6) new complaints; three (3) for malpractice or negligence, three (3) for unprofessional conduct. Nine (9) total complaints closed ; two (2) for insufficient evidence, three (3) closed to discipline, four (4) closed with no action, and one (1) closed with a letter of concern, one (1) with a letter of warning. At the end of 2019 Investigations had Eleven (11) open complaints that were being reviewed and/or investigated.

So far in the year 2020 Investigations has received one (1) new complaint regarding malpractice or negligence. Investigations have closed one (1) complaint with no action. There are currently ten (10) open complaints being reviewed and/or investigated.

### **Complaints-podiatric X-Ray Operators**

For 2020, zero (0) complaints opened, zero (0) complaints closed, and have zero (0) complaints being reviewed and/or investigated.

### **Complaints-Orthotist**

In 2020 Investigations has received zero (0) new complaints, closed zero (0) complaints, and has zero (0) open complaints being reviewed and/or investigated.

### **Complaints-Prosthetist**

For 2020 one (1) complaints opened for fraud and false billing, zero (0) complaints closed, and have zero (0) complaints being reviewed and/or investigated.

## **Complaints-Pedorthist**

For 2020, zero (0) complaints opened, zero (0) complaints closed, and have zero (0) complaints being reviewed and/or investigated.

## **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**

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 May meeting. It was finalized and sent to the Secretary of State’s office and was approved. The rule-making hearing was conducted. The rule packet will be submitted to the secretary of state’s office for final approval. It will then go to the General Assembly for approval.

## **Pending Complaints**

The Office of General Counsel currently has six open cases pertaining to six respondents who hold DPM licenses and one who holds an orthotist license. A 320c notice letter has gone to all 6. A formal notice of charges has been filed on one, which should be tried in early 2021 before the ALJ sitting alone. Of the remaining 5, 1 has had an expert report produced and discussions towards resolution are ongoing. A Notice of Charges will be filed if resolution cannot be reached. We are awaiting an expert’s report in a 3<sup>rd</sup>. Another will require an outside expert to review, and that process has been started. The 5<sup>th</sup> may also require an expert review, although it appears we may be close to having a consent order to present. We have recently received additional factual information from the Respondent in the 6<sup>th</sup> and are considering that.

The Board voted to send all of the overprescribing cases to be heard by an ALJ without the Board. There are some logistical hurdles to be navigated, the hope had been that we would be able to start trying them this summer. Unfortunately, that does not appear to be realistic. Both parties agree that trying overprescribing cases via WebEx is untenable at best, and approaches impossible at worst. We have agreed to start the trial of one of those cases in early 2021. The same Respondent’s attorney is involved in all of these cases and his schedule is such that trials this fall are not possible. The hope is that we can schedule all of the pending overprescribing cases during the first half of 2021.

## **Continuing Education**

By now you may have all seen the Commissioner's policy on auditing continuing education credit hours. If not, please note that the Department will not be auditing for in-person continuing education credits for any licensee for the period of time from March 12 through August 29, 2020. This includes any required in-person continuing education credits for any period of time including that range. Hopefully this will solve the concerns licensees have had for some time about the inability to easily obtain in-person credit hours during the pandemic.

## **Telehealth**

There have been bills introduced to permanently expand the universe of healthcare professionals that can practice telehealth. Given the wide acceptance of expanded telehealth allowed by the governor's executive orders, there is a desire to make that expansion permanent through legislation. At the time of generating this report I do not know the status of the bills in the General Assembly, but the Department is working with our legislative liaisons to provide input. We anticipate something being enacted at the end of the extraordinary session of the General Assembly.

## **Continuing Education For Orthotists, Etc.**

At the last Board meeting, the issue of the interpretation of our rules about continuing education credits for orthotists, prosthetists, and pedorthists arose. The Board asked me to reach-out to Mr. Fillauer for his recollections about the purpose of those rules, which I did. I then e-mailed each board member individually with my summary of the issues and copies of the relevant rules, highlighted. We need to discuss how to interpret our rules on the issue of "in state" education hours and vote on that. If we want to tackle changing the rules to be clear in the future, we can certainly do that as well.

Dr. Stark stated he felt a change in the rules would be helpful.

## **Legislative Report**

Mr. Patrick Powell provided the following summary of new legislation passed:

### **[Public Chapter 573](#)**

This act amends the Tennessee Together statutes. It expands the definition of "alternative treatments" by adding "nonopioid medicinal drugs or drug products, occupational therapy, and interventional procedures or treatments." This is primarily relevant to the treatments that must be disclosed and explained by a healthcare practitioner to a patient or the patient's legal representative as a prerequisite to obtaining informed consent to treatment with an opioid.

This act took effect on March 19, 2020.

### **[Public Chapter 594](#)**

This act was the Department of Health's Licensure Accountability Act. The bill allows all health related boards to take action against a licensee that has been disciplined by another state for any

acts or omissions that would constitute grounds for discipline in Tennessee. The law also expands available emergency actions, allowing actions beyond simply a summary suspension. Finally, the act establishes that the notification of law changes to health practitioners can be satisfied by the online posting of law changes by the respective boards. Notice must be maintained online for at least 2 years following the change.

This act took effect March 20, 2020.

### **Public Chapter 738**

This act prohibits a governmental entity from authorizing destruction of public records if the governmental entity knows the records are subject to a pending public record request. Prior to authorizing destruction of public records an entity must contact the public record request coordinator to ensure the records are not subject to any pending public record requests. Records may still be disposed of in accordance with an established records retention schedule/policy as part of an ordinary course of business as long as the records custodian is without knowledge the records are subject to a pending request.

This act took effect on June 22, 2020.

### **Public Chapter 761**

This act allows certain midlevel practitioners to prescribe buprenorphine when employed in a community mental health center (CMHC) or a federally qualified health center (FQHC). To be eligible under this law, the practitioner must be licensed, and practice as, a family, adult, or psychiatric nurse practitioner or physician assistant. They also must have a DATA waiver issued by SAMHSA/DEA. There can be no limitations or conditions imposed on the provider's license within the previous three (3) years. Prescriptions by the practitioner must not exceed a sixteen (16) milligram daily equivalent. The practitioner also must not prescribe mono product or buprenorphine without naloxone. The provider may only prescribe buprenorphine products to patients treated through the organization that employs the provider. Prescriptions can only be dispensed by a licensed pharmacy to ensure entry into the CSMD. The provider has a cap of fifty (50) patients at any given time. The law also requires the provider to initiate and lead a discussion regarding patient readiness to taper off medications in their treatment at any time upon the patient's request, but no later than one (1) year after initiating treatment, and then every six (6) months thereafter.

The facility must employ one or more physicians and have adopted clinical protocols for medication assisted treatment. The midlevel's collaborating physician must hold an active DATA waiver and be treating patients with buprenorphine at the same facility. The facility must employ providers that accept TennCare and are accepting new TennCare patients. The facility must verify identification of patients. The collaborating physician must review 100% of the charts of patients being prescribed a buprenorphine product and can only collaborate/supervise four (4) nurse practitioners or physician assistants.

This act took effect July 1, 2020.

### **Public Chapter 771**

This act allows certain midlevel practitioners to prescribe buprenorphine when employed in a non-residential office-based opiate treatment facility (OBOT) licensed by the Department of Mental Health and Substance Abuse Services (MHSAS). To be eligible under this law, the practitioner

must be licensed, and practice as, a family, adult, or psychiatric nurse practitioner or physician assistant. They also must have a DATA waiver issued by SAMHSA/DEA. Prescriptions by midlevel providers under this statute are capped at a sixteen (16) milligram daily dose, and must not be for a mono-product or buprenorphine without naloxone, except when utilizing injectable or implantable buprenorphine products. Midlevel providers under this statute are capped at 100 patients.

The OBOT in these situations must employ the midlevel's collaborating physician (who also must hold an active DATA waiver and be treating patients with buprenorphine at the same OBOT) and the OBOT must not have the authority to dispense buprenorphine products. The collaborating/supervising physician under this statute cannot supervise more than two (2) midlevel practitioners.

The OBOT also must employ providers that are credentialed and contracted to accept TennCare patients and bill TennCare for services for treatment of opioid use disorder with buprenorphine. Finally the OBOT must be accepting new TennCare patients.

This act took effect August 1, 2020.

### **Administrative Report**

Ms. Wilkins gave the following administrative report stating as of August 13, 2020 there are 290 active Podiatrists; 148 active X-ray operators; 152 active Orthotists; 147 active Prosthetists and 48 active Pedorthists.

Between May 14, 2020 and August 13, 2020 the following occurred: Podiatrists – 4 new, 23 renewed, 0 retired, 0 expired; Podiatric X-Ray Operators – 3 new, 8 renewed, 0 retired, 0 expired; Orthotist – 2 new, 19 renewed, 0 retired, 0 expired; Prosthetists – 2 new, 18 renewed, 0 retired, 0 expired; Pedorthist – 1 new, 4 renewed, 0 retired, 0 expired.

### **Newly Licensed**

#### **Podiatrists**

- 877 Haag Kevin Timothy
- 876 Hailemichael Elelta
- 875 Rickertsen Reece N.
- 879 Maloney Amanda

Dr. Sables made a motion to approve the newly licensed Podiatrists, seconded by Ms. Oglesby. A roll call vote was held and all present voted in the affirmative. The motion carried.

#### **Podiatric X-Ray Operators**

- 474 Ferrell Amber Rene
- 503 Rodriguez Leticia
- 475 Skiles Lisa M.

Ms. Oglesby made a motion to approve the newly licensed Podiatric X-ray Operators, seconded by Dr. Pavuluri. A roll call vote was held and all present voted in the affirmative. The motion carried.

### **Orthotists**

276 Dyer Nathan  
279 Smith Danielle Renee  
266 Box Donald R

Dr. Stark made a motion to approve the newly licensed Orthotists, seconded by Dr. Khumalo. A roll call vote was held and all present voted in the affirmative. The motion carried.

### **Prosthetists**

264 Martin Gregory

Dr. Stark made a motion to approve the newly licensed Prosthetist, seconded by Dr. Khumalo. A roll call vote was held and all present voted in the affirmative. The motion carried.

### **Pedorthists**

133 Hust James Gettis

Dr. Stark made a motion to approve the newly licensed Pedorthist, seconded by Dr. Khumalo. A roll call vote was held and all present voted in the affirmative. The motion carried.

### **Adjournment**

With no further business to discuss Dr. Khumalo made a motion to adjourn the meeting, seconded by Ms. Oglesby. A roll call vote was held and all present voted in the affirmative. The motion carried. The meeting adjourned at 10:40 a.m.

*Ratified by the Board of Podiatric Medical Examiners on November 6, 2020*