

TENNESSEE BOARD OF PODIATRIC MEDICAL EXAMINERS

DATE: August 9, 2017
TIME: 9:00 A.M., CST
LOCATION: Health Related Boards
Poplar Room
665 Mainstream Drive
Nashville, TN 37243

BOARD MEMBERS

PRESENT: Paul Somers, D.P.M., Chair
Sheila Schuler, D.P.M. Vice-Chair
David Sables, D.P.M.
Tyrone Davis, D.P.M.
Karl Fillauer, C.P.O, Secretary

NOT PRESENT: Martha Kay Oglesby, Consumer Member

BOARD STAFF
PRESENT: Andrea Huddleston, Deputy General Counsel
David Silvus, Assistant General Counsel
Vanessa Hayes, Board Administrator
Theodora Wilkins, Administrative Director

Dr. Somers called the meeting to order at 9:05 a.m. A roll call vote was conducted and all Board members were present with the exception of Ms. Martha Oglesby.

Minutes

Upon review of the May 10, 2017 minutes, Dr. Davis moved to accept the minutes seconded by Mr. Fillauer. The motion carried.

Office of General Counsel

Ms. Andrea Huddleston introduced the new General Counsel for the Podiatry board; Mr. David Silvus. Ms. Huddleston then presented the OGC report stating that a rulemaking hearing was conducted in May 2016 to amend the Continuing Education rule (1155-02-.12) to require two (2) hours of controlled substance prescribing continuing education. The proposed language to amend the Examination rule (1155-02-.08) to give discretion to the Board to waive the provision that examination scores are only valid for five (5) years was withdrawn by the Board. The amendment to the Continuing Education rule was forwarded to and approved by the Attorney General, with an effective date of May 1, 2017.

A rulemaking hearing was conducted in February 2017 to amend the fees rule (1155-02-.06) to reduce the Podiatrist biennial renewal fee from three hundred and fifty dollars (\$350.00) to two hundred and seventy-five dollars (\$275.00), and to amend the fees rule (1155-04-.09) to reduce the Orthotist, Prosthetist, and Pedorthist biennial renewal fee from two hundred dollars (\$200.00) to one hundred and fifty dollars (\$150.00). The amendments to the fee rules were approved by the Attorney General's office on April 21, 2017 and became effective July 23, 2017.

Ms. Huddleston stated there are no appeals or civil suits pending. The Office of General Counsel currently has six (6) open cases pertaining to five (5) respondents who hold podiatric licenses.

Administrative Report

Ms. Hayes stated as of August 8, 2017 there are 271 active Podiatrists; 136 active X-ray operators; 151 active Orthotists; 143 active Prosthetists and 54 active Pedorthists. Ms. Hayes reviewed the monthly statistical breakdown of the renewed, retired and failed to renew.

Ms. Hayes said the remaining date for Board meetings in 2017 is as follows:
November 8, 2017

Legislative Report

Ms. Lacey Blair, Legislative Liaison, presented the Legislative report. She first discussed Public Chapter 316, this sunset provision extends the board of podiatric medical examiners until June 30, 2021.

Public Chapter 167

In this chapter the legislation requires the board of podiatric medical examiners to establish a registration process for certain residents continuing their clinical education. Further, it authorizes a licensed Orthotist or Prosthetist to utilize one or more non-licensed persons to assist in the performance of minor repairs on devices that have been previously dispensed to patients and the performance of other tasks approved by the board. This act took effect on July 1, 2017.

Public Chapter 350

Ms. Blair reported that this will allow healthcare providers to satisfy one hour of continuing education requirements through the performance of one hour of voluntary provision of healthcare services. The maximum amount of annual hours of continuing education that a provider can receive through providing volunteer healthcare services is the lesser of 8 hours or 20% of the provider's annual continuing education requirement. The legislations allows for rulemaking by the division of health related boards in order to administer this section. This took effect on May 12, 2017.

Public Chapter 215

This will require state governmental entities that establish or adopt guides to practice to do so through the promulgation of rules, rather than policy. The rules so promulgated must specify all provisions included in and relating to the guide to practice. Any changes to guides to practice made after the guides are adopted must also be promulgated by rule in order to be effective. For purposes of this part, guides to practice includes codes of ethics and other quality standards, but does not include tests, examinations, building codes, safety codes, or drug standards. This legislation took effect on April 28, 2017.

Public Chapter 240

This legislation was brought by the Department of Health and was designed to address a number of issues throughout all licensing boards, committees, and councils. This legislation will:

- Insure the integrity of licensure examinations by making examination questions, answer sheets, scoring keys, and other examination data confidential and closed to public inspection.
- Allow the issuance of limited licenses to applicants who have been out of clinical practice or inactive, or who are engaged in administrative practice. Limited licenses may be of restricted scope, restricted duration, and have additional conditions placed upon them in order to obtain full licensure.
- Clarify that other documents prepared by or on behalf of the Department with regard to an investigation are confidential until such time as formal disciplinary charges are filed against the provider.
- Eliminate the “locality rule” for administrative law and require the chief administrative official for each health care facility to report within 60 days any disciplinary action taken against an employee for matters related to ethics, incompetence or negligence, moral turpitude, or substance abuse, to the employee’s respective licensing board. All records pertaining to the disciplinary action shall be made available for examination to the licensing board.

This act became effective on May 2, 2017.

Public Chapter 481

This legislation creates a new violation of a healthcare practitioner’s practice act if that practitioner refuses to submit to or tests positive for any drug the practitioner does not have a lawful prescription for or a valid medical reason for using the drug. It is the duty of the employer to report any violation to the Department of Health. If the practitioner fails a drug test, the practitioner has 3 business days to either produce the requisite prescription or medical reason, or report to their board approved peer assistance program. If the practitioner does not comply with any of these measures, it is the duty of the employer to report this violation of the practice

act to the employee's licensing board for investigation and action. If the practitioner reports to the peer assistance program and obtains and maintains advocacy of the program, the employer is not required to notify the board.

As long as a practitioner obtains, maintains and complies with the terms of a peer assistance program, the board shall not take action on the licensee for the sole reason of a failed or refused drug test. If a practitioner fails to obtain or maintain advocacy from the peer assistance program, the program is required to report that information to the appropriate licensing board. The board SHALL suspend the license of a practitioner who fails to comply with the terms of the program. Employer drug testing must be compliant with the Drug-free Workplace requirements. This legislation allows a quality improvement committee to share information regarding substance abuse by a practitioner with other quality improvement committees. Additionally, this legislation specifies that the Department of Health is not required to obtain prior approval from the Attorney General in order to take any emergency action on a licensee. This legislation took effect on July 1, 2017.

Public Chapter 230

This legislation authorizes commissioners or supervising officials of departments to evaluate certain actions by a regulatory board to determine whether the action may constitute a potentially unreasonable restraint of trade. Supervising officials must ensure that the actions of regulatory boards that displace competition are consistent with a clearly articulated state policy. If a board action constitutes a potentially unreasonable restraint of free trade, the supervising official must conduct a further review of the action and either approve, remand or veto the action. The supervising official may not be licensed by, participate in, or have a financial interest in the occupation, business or trade regulated by the board who is subject to further review, nor be a voting or ex officio member of the board. The supervising official must provide written notice of any vetoed actions to the senate and house government operations committees.

Prior to filing a regulatory board's rule with the secretary of state, the commissioner or chief executive officer of the administrative department under which a regulatory board operates or to which a regulatory board is administratively attached, or a designee to the extent a conflict of interest may exist with respect to the commissioner or chief executive officer, must remand a rule that may constitute a potentially unreasonable restraint of trade to the regulatory board for additional information, further proceedings, or modification, if the rule is not consistent with a clearly articulated state policy or law established by the general assembly with respect to the regulatory board. This act took effect on April 24, 2017.

Newly Licensed/Certified

Podiatrist

David Farnen

Justin Cooper Jex

Daniel Piper

Dr. Davis made a motion to approve the newly licensed Podiatrist, seconded by Dr. Sables. The motion carried.

Podiatric X-Ray Operators

Aimee Michelle Deane

Shelby Dunlap

Tamara Denise McAninch

Paola Andrea Montoya

Blakely Walker Sproles

Dr. Schuler made a motion to approve Podiatric X-Ray Operators, seconded by Mr. Fillauer. The motion carried.

Orthotists

Sarah Elizabeth French

Robert Jozefyk

Brittany J. Rogers

Mr. Fillauer made a motion to approve the Orthotists, seconded by Dr. Schuler. The motion carried.

Prosthetists

Sarah Elizabeth French

Robert Jozefyk

Jennie Marie Rhodes

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

Pedorthists

Corey Gee

Mr. Fillauer made a motion to approve the Pedorthist, seconded by Dr. Davis. The motion carried.

Reinstatements

Podiatric X-Ray:

Leslie M. Bizzoco

Tara M. Hansen

Upon review Dr. Schuler made a motion, seconded by Mr. Fillauer, to approve the reinstated Podiatric X-Ray Operators license. The motion carried.

Orthotist:
Richard Babcock

Upon review, Mr. Fillauer made a motion, seconded by Dr. Davis, to approve the reinstated Orthotist License. The motion carried.

Pedorthist:
William Grass

Upon review, Mr. Fillauer made a motion, seconded by Dr. Schuler, to approve the reinstated Pedorthist License. The motion carried.

Other Board Business

The Board discussed record retention due to there not being a rule on record retention for the Podiatric board. Ms. Huddleston discussed samples rules on record retention from various other boards. Dr. Sables agreed to review the Medical board rules, and it will be discussed again at the next board meeting.

Adjournment

A motion to adjourn was made by Dr. Somers and seconded by Dr. Sables. The motion carried. The meeting adjourned.