

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

DATE: November 2, 2018

TIME: 9:00 A.M., CDT

LOCATION: Health Related Boards
Poplar 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.
Karl Fillauer, C.P.O. - Secretary
Martha Kay Oglesby, Consumer Member

BOARD STAFF

PRESENT: David Silvus, Assistant General Counsel
Vanessa Hayes, Board Administrator
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.

Minutes

Upon review of the September 27, 2018 minutes, Ms. Oglesby moved to accept the minutes, seconded by Dr. Pavuluri. All in favor. The motion carried.

Rulemaking Hearing

Mr. Silvus stated that the purpose of this rulemaking hearing is to solicit comments on rules proposed by the board in order to amend rules 1155-02-.08 and 1155-02-.18. The amendment to rule 1155-02-.08 deletes the existing rule in its entirety substituting instead the following language, so that as amended, the new paragraph shall read: Any applicant whose most recent satisfactory examination score is more than five (5) years old and who has not practiced podiatry with an unencumbered license in another state during the three (3) year period immediately preceding the application shall be required to take the PMLexis examination for licensure.

The amendment to rule 1155-02-.18 will provide guidance to Podiatrists regarding record keeping because currently there are no rules or regulations on this. The new language provides time frames for which records are to be maintained, how those records will be maintained and

what should be included in those records. It provides practitioners instructions for notifying patients when a practice is going to be closed as well as the process for forwarding records on to a new practitioner if the patient so desires. It provides instructions for the maintenance of records and the notification of patients when a practitioner leaves a practice.

Mr. John Williams spoke to the board on behalf of the TPMA. He suggested that the wording be changed to adopt the official language for the PMLexis. It is no longer called the PMLexis, it is just Part III. On the medical records rules they prefer the timeframes used by the board of Medical Examiners. The first suggested change is pertaining to giving notice to patients. They would like the 14 days to be changed to 30 days which is the time period that is in the rules for Medical Examiners. The second suggestion is to take out sections 1-6 that is pertaining to what has to be in a practitioners medical records. The third suggestion is pertaining to section (d)3 that talks about when a podiatrist leaves a practice or upon death or retirement. They would also like to change 7 years to 10 years on the record retention because that is in the medical examiners rules and medicare requires that records be held for 10 years.

Any applicant whose most recent satisfactory examination score is more than five (5) years old and who has practiced podiatry with an unencumbered license in another state during the three (3) year period immediately preceding the application shall not be required to take Part III examination for licensure. All other applicants whose examination is more than five (5) years old will be required to take the NBPME exam. Dr. Sables made a motion to adopt the rule change, seconded by Ms. Oglesby. All in favor. Motion passes.

There was a roll call vote to vote on the amendment as moved by Dr. Sables. All in favor. Motion passes.

Dr. Davis made a motion to adopt changes to 1155-02-.18, seconded by Ms. Oglesby. All in favor.

Dr. Sables made a motion to change 14 days to 30 days, seconded by Mr. Fillauer. All in favor

Dr. Sables made a motion to adopt TPMA's recommendation to delete section (3)c iii, seconded by Dr. Davis. All in favor.

Dr. Sables made a motion to accept TPMA's recommendation to change the language of Rule 1155-020.18(3)(d)(3) to it being the responsibility of the group rather than the Podiatrist when a Podiatrist departs from the group. This was seconded by Dr. Pavuluri. All in favor.

Dr. Sables made a motion to adopt the TPMA's recommendation to change the language from "Whomever" to "Whoever" in Rule 1155-02-.18(3)(d).3(i), seconded by Ms. Oglesby. All in favor.

Dr. Sables made a motion to accept the TPMA's recommendation to delete from Rule 1155-02-.18(3)(d).3(ii) subsection: "Except where otherwise governed by provisions of the podiatrist's contract". This was seconded by Mr. Fillauer. All in favor.

Dr. Sables made a motion to accept the TPMA's recommendation stating that it should be stated somewhere in the rule that its application is prospective. A podiatrist should not be disciplined for violation a requirement of this rule if the rule was not in effect at the time the podiatrist took an action that now constitutes a violation of the rule. This was seconded by Dr. Pavuluri. All in favor.

There was a roll call vote for all of the amendments. All in favor. Motions passed.

Mr. Silvus discussed and reviewed the Statement of Economic Impact to Small Business. Dr. Schuler made a motion to accept, seconded by Dr. Davis. All in favor.

Contested Case

This case is the Department of Health vs. Crystal E. Jackson docket # 17.23-154443a, license # 282. Ms. Jackson had been certified a Podiatric X-Ray operator since December of 2011. June 30th of 2016 her certification expired. She did not send in a reinstatement application until December 4, of 2017. She continued to work on an expired certification for eighteen (18) months. The policy for lapsed licensed states that each month beyond 90 days that they work on an expired license can be assessed a civil penalty of not more than \$1000 per month. She is contesting this matter due to her renewal normally going to her employer, but this one was not received. The Board is to determine the appropriate discipline.

Ms. Oglesby made a motion to accept the findings of facts that Mr. Silvus presented, seconded by Dr. Pavuluri. All in favor.

Mr. Fillauer made a motion to approve the Conclusions of Law, seconded by Ms. Oglesby. All in favor. Motion carried.

Mr. Fillauer made a motion to approve the Policy Statement, seconded by Ms. Oglesby. All in favor. Motion carried.

Ms. Oglesby made a motion to access the civil penalties of fifty (\$50) dollars a month for fifteen (15) months for a total of seven-hundred and fifty (\$750) dollars, seconded by Dr. Davis. All in favor. Motion carried.

Dr. Davis made a motion to access penalties for administrative costs that shall not exceed seven-hundred and fifty (\$750) dollars, seconded by Mr. Fillauer. All in favor. Motion carried.

Investigative Report

Ms. Lori Leonard reported that for 2018 they have received nine (9) new complaints for Podiatrists. Of those, four (4) were for malpractice and negligence, four (4) allegations of unprofessional conduct, and one (1) was for a medical record request. A total of five (5) complaints have been closed. One (1) was closed for insufficient evidence, and four (4) were closed with no action. There are eight (8) open complaints being investigated or reviewed. There has been one (1) new complaint for Podiatric X ray Operators so far this year and one (1) has been closed and been sent to OGC for discipline for a lapsed license. There has been one (1) new complaint for Orthotics and one (1) is being investigated for unlicensed practice.

Office of General Counsel

Mr. David Silvus, Advisory Attorney from the Office of General Counsel presented the OGC report. He stated that the revisions to Rules 1155-04-.04 and 1155-04-.05 regarding Orthotic assistants, Prosthetic assistants, and Orthotist/Prosthetist assistants and residency become effective October 8, 2018.

At this time there are no appeals or civil suits pending. The Office of General Counsel currently has two (2) open cases pertaining to DPM licenses.

Administrative Report

Ms. Hayes stated as of November 1, 2018 there are 268 active Podiatrists; 135 active X-ray operators; 152 active Orthotists; 148 active Prosthetists and 45 active Pedorthists. Ms. Hayes reviewed the monthly statistical breakdown of the renewed, retired and failed to renew.

Ms. Hayes said the Board meeting dates for **2019** are as follows:

Board Meeting Dates

February 8, 2019

May 10, 2019

August 9, 2019

November 8, 2019

Applicant for File Review

Dr. Christina A. Juber file was reviewed by the Board for approval of due to her PMLexis being taken in December of 2011 and that being more than five (5) years ago. Dr. Juber was licensed in Illinois and this Board has reviewed Illinois requirements in the past and has acknowledged that their requirements are essentially identical. Dr. Davis made a motion that Illinois statues and requirements are equal to Tennessee's, seconded by Ms. Oglesby. All in favor. Motion carried. Dr. Davis made a motion to waive the Part III (PMLexis), seconded by Dr. Pavuluri. All in favor. Motion carried.

Dr. Gary Fischman file and letter was presented to the Board for review. Dr. Fischman has not fulfilled the residency requirement. The Board is unable to waive the residency requirement. Dr. Pavuluri made a motion to deny, seconded by Dr. Davis. All in favor. Motion carried.

Newly Licensed

Podiatrist

Katie Hoang

Nrup Tolat

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

Orthotists

Ramen L. Landon

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

Prosthetists

Ronald A. Dickson

Ramen L. Landon

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

Other Board Business

There is no other Board business.

Adjournment

Mr. Fillauer made a motion to adjourn the meeting at 12:08 p.m., seconded by Dr. Davis. The meeting adjourned.