



TENNESSEE BOARD OF PODIATRIC MEDICAL EXAMINERS
August 9, 2024

MINUTES

The regular Board meeting of the Tennessee Board of Podiatric Medical Examiners was called to order at 9:00 a.m. in the Poplar Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Bhukumuzi Khumalo, Board Chair.

Board members present: Bhukumuzi Khumalo, D.P.M
 Christopher G. Frazier, D.P.M.
 Chad Webster, D.P.M.
 Kelly Bumpus, D.P.M.

Board Member(s) Absent: Aaron Sorensen
 Vacant, Consumer Member

Staff present: Ashley Fine, Deputy General Counsel
 Candyce Wilson, Unit 1 Board Director
 Tabatha East, Administrative Director

PRESENTATION FROM THE DEPARTMENT'S LEGISLATIVE OFFICE

The following 2024 Legislative Update was presented by legislative liaison, Holt Whitt:

PC.557 SB2074/HB1678

As enacted, transfers certain duties and authority regarding data reported by health facilities from the executive director of the health facilities commission to the department; requires licensed birthing centers to report claims data on discharges to the department at least quarterly; removes requirement that an owner of a hospital that closes must submit to the department a report of the statistical particulars relative to the hospital's patients for the fiscal year.

PC.561 SB2075/HB1679

As enacted, generally prohibits a licensed dentist from allowing, under general supervision, more

than three dental hygienists to work at any one time; authorizes a dentist to supervise, under direct supervision, no more than five dental hygienists while the dentist and each hygienist are providing dental services on a volunteer basis through a nonprofit provider of free mobile clinics; authorizes a dentist to supervise, under general supervision, no more than five dental hygienists if the dentist and dental hygienists work for the department of health, a county or metropolitan health department, or an entity that participates in the state safety net program for the uninsured.

PC.761 SB2482/HB2773

As enacted, enacts the "Cassie Wright Act," which makes changes to law relative to a parent, legal guardian, or legal custodian having access to certain medical information of their unemancipated minor. Requires a health care professional who reports a threat of bodily harm or threat of committing suicide, by a service recipient who is an unemancipated minor, to law enforcement must also report to the unemancipated minors parent, legal guardian, or legal custodian. Requires access to an unemancipated minors prescription records unless the provider is required to report abuse or access to this information is reasonably likely to endanger the life or physical safety of the minor.

PC.783 SB1673/HB1625

As enacted, requires a qualified mental health professional or behavior analyst to warn or protect an identified victim or group of people when the professional or analyst determines that a service recipient has communicated an intent for actual threat of bodily harm; requires the professional or behavior analyst to report such threat; provides immunity from civil, criminal, and regulatory liability for a professional or analyst who takes reasonable action to warn or protect identified victims or groups and to report such threat.

PC.831 SB1766/HB1882

As enacted, requires a healthcare provider to provide to a patient or the patient's authorized representative a full copy of the patient's medical records within 10 working days of receipt of a written request by the patient or representative, instead of providing a full copy or a summary of the records; requires a healthcare provider to provide to a principal or an attorney in fact acting pursuant to a durable power of attorney for health care a full copy of the principal's medical records within 10 working days of receipt of a written request by the principal or attorney in fact, instead of providing a full copy or a summary of the records.

PC.893 SB1720/HB2451

As enacted, requires certain information to be included in a healthcare practitioner advertisement. A practitioner may only advertise the profession, title, or designation associated with the educational degree of the practitioner.

PC.944 SB2588/HB2097

As enacted, requires state regulatory boards within the department of commerce and insurance and state health related boards within the department of health to issue advisory opinions upon request.

PC.1027 SB1881/HB2857

As enacted, removes from the definition of "provider-based telemedicine" the requirement that the healthcare service provider or the provider's practice group or healthcare system have an established provider-patient relationship that is documented by an in-person encounter within 16 months prior to the interactive visit.

PC.1030 SB1963/HB2176

As enacted, permits a court to award the reasonable court costs and attorney's fees to a petitioner successfully proving that a governing body knowingly and willfully violated the public meetings

laws in this state.

PC.1043 SB2151/HB2861

As enacted, clarifies that a healthcare practitioner shall not coerce a person, including a person who has legal authority to make healthcare decisions for a child, to consent to a vaccination; Mislead or misrepresent that a vaccination is required by state law, when state law provides an exemption; or (3) Mislead or misrepresent that a newborn screening test is required by state law, when state law does not require such screening without providing an exemption to such requirement.

PC.1061 SB2749/HB2936

As enacted, enacts the "Families' Rights and Responsibilities Act." This act outlines that parental consent must be given to a healthcare provider to render certain treatment or services unless under certain circumstances such as emergency medical or surgical treatment or if blanket consent has been given.

DISCUSS AND VOTE ON FUTURE CONTESTED CASE HEARING DATES

The Board discussed optional meeting dates to hear a future contested case. The Board members presented confirmed February 10th, 11th, and 12, 2025 will be reserved for this contested case hearing.

CONFLICT OF INTERESTED POLICY REVIEW

Ms. Ashley Fine with the Office of General Counsel reviewed the conflict-of-interest policy and there were no questions.

DISCIPLINARY ORDER(S)

Consent Order(s)

Nathan Lucas, DPM (license # 481) – was not present before the Board, nor was his legal counsel Mr. Robert Spence. Ms. Candace Carter represented the State, and the order was presented by Mr. Justin Hareman. The facts stipulated are grounds for discipline. The order shall voluntarily retire the Respondents license, which is the same as a revocation effective the date of entry of this order. Dr. Chad Webster motioned to approve this order. Dr. Kelly Bumpus seconded the motion, and it passed.

David Cloud, PED (license #105) – was present before the Board and Ms. Regan Cothron represented the State. The facts stipulated are grounds for discipline. This order shall reprimand the Respondent’s license. Dr. Webster motioned to approve this order. Dr. Bumpus seconded the motion, and it passed.

Agreed Citations(s)

Jeffrey Roberts, Orthotist (license # 175) - was not present before the Board and Ms. Wilson presented the order. The Respondent was found to be practicing on a lapsed license for two (2) months. The Respondent signed the order and paid the civil penalties.

Jeffrey Roberts, Prosthetist (license # 31) - was not present before the Board and Ms. Wilson presented the order. The Respondent was found to be practicing on a lapsed license for two (2) months. The Respondent signed the order and paid the civil penalties. Dr. Webster motioned to approve both orders for Jeffrey Roberts. Dr. Bumpus seconded the motion, and it passed.

PUBLIC COMMENT POLICY REVIEW

Ms. Fine reviewed the public comment policy adopted by the Department on March 15, 2024.

In order to participate in the period of public comment before a Governing Body, a member of the public must notify the Governing Body ten business days prior to a scheduled meeting that the individual desires to address the Governing Body. The individual must also notify the Governing Body of the topic from the published agenda or sunshine notice for the meeting on which the individual wishes to speak. This notice by the member of the public to the Governing Body shall be directed to the email given in the published agenda or sunshine notice for the meeting.

If the Governing Body amends the published agenda or sunshine notice within ten business days prior to the meeting, any member of the public desirous of addressing the Governing Body must give notice that they desire to speak on the added agenda topics no later than twenty-four hours prior to the Governing Body's meeting. All reasonable attempts are made to include all items submitted up to one day prior to the meeting. Please note that items submitted within one day of the meeting are not guaranteed to have been timely reviewed and may not be able to be included.

APPROVAL OF MINUTES

The Board members reviewed the meeting minutes from February 23, 2024. Dr. Christopher Frazier motioned to approve both sets of minutes. Dr. Webster seconded the motion, and it passed.

REPORT FROM THE OFFICE OF INVESTIGATIONS

Ms. Barbara Granum reported for 2024 thus far. There were sixteen (16) complaints open and thirteen (13) closed. There were eight (8) complaints closed with no action, four (4) referred to the office of general counsel, and one (1) closed with a letter of warning.

ADMINISTRATIVE OFFICE REPORT

The Board reviewed and heard the current Board Administrative Office report. At this time there are 327 licensed Podiatrists, 106 licensed podiatric x-ray operators, 138 licensed orthotists, 144 licensed prosthetists, and 35 licensed pedorthist.

Ms. Wilson and the Board discussed the current application process timelines and to the process for someone completing their residency program and obtaining licensure quickly after completion. The Board has a policy, "Policy on Application for License Prior to Completion of Residency", which allows applicants to apply for licensure up to six (6) months prior to completing their residency program. If the administrative office has an otherwise complete application and a consultant has already agreed the applicant qualifies for licensure, pending completion of the residency program, then the application would be approved immediately upon receipt of that proof. This policy was adopted on February 7, 2020.

There was a question on when a new financial report would be available to the Board. Ms. Wilson informed the Board that a mid-year report would have been presented at their May meeting, but they Board did not meet because they did not have a quorum. The fiscal office has requested to wait until the Boards November meeting to present their year end report since those mid-year numbers are only a projection and they are now compiling the actual numbers. It was noted that this Board previously had been presented an incorrect carry over balance due to a calculation error and that has since been corrected.

OFFICE OF GENERAL COUNSEL REPORT

Ms. Ashley Fine with the Office of General Counsel ("OGC") presented the OGC report. The Office of General Counsel will provide an update to the Board concerning the Continuing

Education Amendments in Rule 1155-04-.12. The Office of General Counsel will also present proposed rules as they pertain to 2021 Public Chapter 328. There are no pending appeals from Board action and no civil suits. The Office of General Counsel currently has six (6) open cases against respondents, including four cases against Podiatrists, one (1) case against a Pedorthist, and one (1) case against an Orthotist. There is one (1) contested case scheduled for 1 p.m., and the Office of General Counsel will present three (3) consent orders at this meeting.

CONDUCT NEW BUSINESS

Ratification of New Licensees

Dr. Webster made a motion to approve the newly licensed applicants under this Board. Dr. Frazier seconded the motion, and it passed.

Discuss and Consider 2024 Chronic Pain Guidelines

The Chronic Pain Guidelines were amended in January 2024. The changes made were housekeeping in nature and they are available on the Department's website. Dr. Bumpus made a motion to update the Board's policy page website with the new guidelines. Dr. Frazier seconded the motion, and it passed.

Vote on Taskforce Member Assignment Pursuant to 2024 Public Chapter 1042

Public Chapter 1042 discuss the requirement of a taskforce to set standards, procedures and determine the responsibility for the review of patient medical charts. Dr. Webster motioned to appoint Dr. Frazier to the taskforce. Dr. Bumpus seconded the motion, and it passed.

Lapsed License Policy Amendment

Ms. Fine read aloud part of the existing lapsed license policy which states "assessment of civil penalties in an amount to exceed \$1,000 per month". It is the assumption this was an error, and the language was supposed to read "not to exceed". Dr. Bumpus motioned to approve the amendment to "not to exceed". Dr. Frazier seconded the motion, and it passed.

Discuss and take any necessary action on rules pursuant to 2021 Public Chapter 328

To comply with requirements of PC328, Ms. Fine provided the Board with a redline version of proposed rule amendments for Rule Chapters 1155-02, 1155-03 and 1155-04. The Board opted to have Ms. Fine present each change line by line for Rule Chapter 1155-02 and 1155-03. The Board has tabled Rule Chapter 1155-04 until the next Board meeting when Mr. Aaron Sorensen will be present to assist in the review of that packet. After some discussion into the rule packets, Dr. Webster motioned to table all three rule packets until the next Board meeting, so the members had more time to review them. Dr. Frazier seconded the motion, and it passed.

Jeffrey Roberts – Ms. Wilson notified the Board that she has received the remaining items for Mr. Roberts request for reinstatement. The Board reviewed and considered his application. Dr. Webster motioned to approve his application for licensure. Dr. Bumpus seconded the motion, and it passed.

Discuss and take any necessary action on rules 1155-04-.12 Continuing Education

Ms. Fine notified the Board that at the August 11, 2023, Board meeting they approved a rulemaking hearing to modify their continuing education rules. After that hearing, they transferred the rules to a form required for submission of rules to become permanent rules. In completing this form, there was an error made in the selection for the instructional language. The Secretary of States office notified this office of the error and had the rule changed gone through, the instructional language would have deleted the entire rule section and only left that one paragraph. The only solution was to withdraw the rule. At this time, the Board needs to review and consider approval of this rule

filing amendment so it can move to the next process. Dr. Webster motioned to approve the rule amendments and Dr. Bumpus seconded the motion. The motion unanimously passed by roll call vote.

The Board discussed implementation of CE Broker as an optional tool. Ms. Wilson will work with CE Broker on next steps to set this up.

Adjournment

Dr. Frazier motioned to adjourn the meeting. Dr. Webster seconded the motion, and it passed.