

TENNESSEE BOARD OF PODIATRIC MEDICAL EXAMINERS

DATE: August 19, 2015
TIME: 9:00 A.M., CST
LOCATION: Health Related Boards
Poplar Room
665 Mainstream Drive
Nashville, TN 37243

BOARD MEMBERS

PRESENT: Karl Fillauer, C.P.O., Secretary
Sheila Schuler, D.P.M.
Paul Somers, D.P.M.
David Sables, D.P.M.
Martha Kay Oglesby, Consumer Member

BOARD MEMBERS

ABSENT: Paul Rivard, D.P.M., Chair

BOARD STAFF

PRESENT: Devin Wells, Assistant General Counsel
James Hill, Board Administrator
Theodora Wilkins, Administrative Director
Nichelle Dorroh, Investigations

Dr. Somers called the meeting to order at 9:03 a.m. A roll call voted was conducted and a quorum was present.

Minutes

Upon review of the April 22, 2015 minutes, Mr. Fillauer made a motion, seconded by Dr. Schuler, to approve the minutes as written. The motion carried.

Office of General Counsel

Mr. Wells stated there is one (1) open case in OGC and no Agreed Orders or Consent Orders to present.

Mr. Wells said SB0096/HB0058, which changes the minimum age to sit for an examination to receive a Podiatry license from eighteen (18) to twenty-four (24), was referred to the House Sub-Committee and Senate Health and Welfare Committee.

Mr. Wells said the Lawrence case is still on appeal and waiting a decision by the Chancellor of Chancery Court.

Financial Report

Ms. Wilkins said there is no Financial Report for the Board to review.

Office of Investigations

Nichelle Dorroh stated there is currently one (1) open complaint in investigations against a Podiatrist.

Ms. Dorroh reviewed the currently monitored practitioners report with the Board.

Administrative Report

Mr. Hill stated as of April 2015 there are currently two hundred sixty three (263) actively licensed Podiatrists; one hundred thirty five (135) Podiatric X-ray Operators; one hundred forty nine (149) Orthotists; one hundred forty six (146) Prosthetists; and, fifty seven (57) Pedorthists.

Mr. Hill said they have a new web site and asked the Board members to review the site and let them know if anything needs to be amended.

Mr. Hill reviewed the following 2016 Board meeting dates with the Board:

2-10-2016
5-11-2016
8-10-2016
11-9-2016

Mr. Hill stated the next Board meeting is Thursday, November 12, 2015, as the eleventh (11th) is Veteran's Day.

The Board members stated Thursday was not a good day for a meeting and asked Ms. Wilkins to see what other dates are available.

Upon review of available dates, the Board changed the November 12, 2015 Board meeting date to October 21, 2015.

Agreed Citations

The Board reviewed an Agreed Citation for **William Mullins, Prosthetist**, for working eight (8) months on an expired license after the three (3) month grace period.

Mr. Fillauer made a motion, seconded by Dr. Sables, to accept the Agreed Citation. The motion carried.

The Board reviewed an Agreed Citation for **Brad Bullock, Pedorthist**, for practicing on an expired license for one (1) month after the three (3) month grace period.

Mr. Fillauer made a motion, seconded by Dr. Sables, to accept the Agreed Citation. The motion carried.

The Board reviewed an Agreed Citation for **Mark Watson, Orthotist**, for practicing on an expired license for one (1) month after the three (3) month grace period.

Mr. Fillauer made a motion, seconded by Dr. Sables, to accept the Agreed Citation. The motion carried.

The Board reviewed an Agreed Citation for **Irene B. Campbell, DPM**, for failure to obtain the required continuing education hours for 2013/2014.

Mr. Fillauer made a motion, seconded by Dr. Sables, to accept the Agreed Citation. The motion carried.

Review, Approve/Deny and Ratify New Licensure Files

Dr. Shuler made a motion, seconded by Mr. Fillauer, to approve the following newly licensed Podiatrists:

David Q. Anderson
Christopher S. Benac
Ted E. Butterfield
Nathan S. Coleman
Jeffrey W. Dikis
Lindsay Paige Foust
Jamil A. Hossain
Sarepta Issac
Dannielle L. Malin

The motion carried.

Dr. Sables made a motion, seconded by Mr. Fillauer, to approve the following newly licensed Podiatric X-Ray Operators:

David G. Brown
Christine Shansky

The motion carried.

Mr. Fillauer made a motion, seconded by Dr. Schuler, to approve the following newly licensed Prosthetist:

Jason L. Hayden

The motion carried.

Mr. Fillauer made a motion, seconded by Dr. Sables, to approve the following newly licensed Pedorthists:

Eric Tidwell
Robert E. Williams

The motion carried.

Reinstated Licenses

The Board reviewed the following list of reinstated licensees:

Irma Wejuli, Podiatrist
Carrie Lea Porter, Podiatric X-Ray Operator
Daniel R. Hartung, Orthotist
Mark A. Watson, Orthotist
Thomas R. Baker, Prosthetist
Mark A. Watson, Prosthetist
Brad A. Bullock, Pedorthist

Discuss academic licensure and possible rule changes

Mr. John Williams, Tennessee Podiatric Medical Association, stated the standard residency for podiatrists has increased from one (1) to three (3) years. Mr. Williams said with four (4) years of college, four (4) year of podiatric medical school, and a three (3) year residency program it is eleven (11) years before a Podiatrist can begin credentialing for insurance and have hospital privileges.

Mr. Williams stated he discussed the process by which Medical Doctors are licensed with **Maegan Carr Martin, Executive Director**, Medical Examiners Board and **Rosemary Otto, Director**, Health Related Boards. Mr. William distributed a copy of the rules from the Medical Examiners Board and proposed rules for the Podiatric Medical Examiners Board to expedite licensure.

Mr. Williams suggested that the Board conduct a rulemaking hearing to allow applicants who have completed all but six (6) or fewer months of the residency program to apply for licensure, provided they have met all other requirements, and submit a letter from the residency program director attesting to the applicant's satisfactory performance in and anticipated successful

completion of the residency program. Mr. Williams said upon receipt of evidence of completion of the program, by the Board administrative office, a license can be issued.

Dr. Schuler stated there are only twenty-nine (29) states that require a residency program.

Upon discussion, Dr. Sables made a motion, seconded by Mr. Fillauer, to have Mr. Wells draft language to revise Rule 1155-02-.05(1)(h) and conduct a rulemaking hearing. The motion carried.

Ms. Wilkins stated there are a few housekeeping amendments that need to be made in the rules which will be included in the rulemaking.

Correspondence

Mr. Hill stated there is no correspondence for the Board to review.

Legislation

Mr. Ben Simpson, Legislative Liaison, reviewed the following legislative updates for 2015.

Public Chapter 154, which allows the Commissioner of Health or his designee to have electronic access to medical records in order to facilitate investigations when responding to an immediate threat to public health, became effective April 16, 2015.

Public Chapter 94, which defines “abuse” and “neglect” for purposes of placing a person on the registry of persons who have abused, neglected, or misappropriated the property of vulnerable individuals specifically within the statutes that govern the Department of Health and increases the time within which placement on the registry may be appealed from thirty (30) to sixty (60) days became effective April 10, 2015.

Public Chapter 26, which deletes the Intractable Pain Act for physicians and surgeons, became effective July 1, 2015.

Public Chapter 502, allows the Joint Government Operations Committee to stay a rule up to seventy-five (75) days instead of sixty (60) days. The act adds arbitrariness and capriciousness as two (2) new considerations.

Public Chapter 268, which makes disclosures of protected healthcare information permissible in medical malpractice lawsuits, became effective on April 24, 2015.

Public Chapter 261, provides for the practice of telehealth by defining a healthcare provider; establish a provider-patient relationship by mutual consent and mutual communication; specify that telehealth does not create a new standard of care; prohibits any Board from creating a more restrictive standard of professional practice for telehealth service; allows a physician to prescribe by means of telemedicine and follow all prescribing applicable statutes such as checking the

Controlled Substance Monitoring Database and not permitting pain management clinics; and, not requiring a separate telehealth license by the Board of Medical Examiners.

Public Chapter 476 extends the time in which the top fifty (50) prescribers of controlled substances and the top ten (10) prescribers of controlled substances in all of the counties combined having a population of less than fifty thousand (50,000), according to the 2010 federal census or any subsequent federal census, must provide an explanation to the department of health justifying the amount of controlled substances they prescribed from fifteen (15) business days to thirty (30) business days.

Discuss delegation of initial application approval to Administrator/Director

Mr. Hill stated he would like to expedite the application process. Mr. Hill said when the application is complete he copies and redact certain items in the documents and then scan and send the application to Dr. Somers for review.

Mr. Hill said if the administrative office had the authority to give initial approval the applicant would be sent a go-to-work letter, allowing the applicant to seek employment. The application would only be sent to a Board member if there were any issues.

Mr. Williams asked how many academic applications are received.

Mr. Hill stated he only receives one (1) or two (2) annually.

Upon discussion, Dr. Schuler made a motion, seconded by Mr. Fillauer, to allow Mr. Hill to make an initial approval of applications with the applications made available for Board member review if needed. The motion carried.

Discuss and take action, if needed, regarding rulemaking, hearing, rule amendments and policies

Ms. Wilkins stated there is nothing to report at this time.

Discuss other Board business:

Dr. Sables stated that with the increasing cost of deductibles, patients are not going to their primary care doctors as often. Dr. Sables said they are going to a facility and have a scan or cast taken of the extremity. Dr. Sable said the Orthotists, Prosthetists or Pedorthists will then seek out a prescription from the primary care doctor, which according to law, they should have a prescription before any scan or cast of the extremity is performed.

Mr. Fillauer stated the prescription needed to be in place prior to treating a patient.

Mr. Fillauer said sometimes when a patient comes in for a repair; the practitioner determines the patient needs a new device prior to receiving a prescription.

Mr. Wells suggested putting a policy statement or interpretative guidelines in place, or suggest the patient or doctor file a complaint.

Upon discussion, Dr. Schuler asked Mr. Wells to send a letter to the state association pertaining to the unlawful act of performing a scan or cast on a patient without a prescription from the primary care doctor.

Mr. Fillauer stated it was hard to find the link for the licensure process for Orthotists, Prosthetists and Pedorthists at the Board's web site.

Ms. Wilkins stated she would try to get the issue resolved.

With no other Board business to conduct, Dr. Sables made a motion, seconded by Dr. Schuler, to adjourn at 10:09 a.m. The motion carried.

Adopted by the Board of Podiatric Medical Examiners on this the 24th day of February, 2016.