

TENNESSEE BOARD OF PODIATRIC MEDICAL EXAMINERS

DATE: October 14, 2009

TIME: 9:00 A.M., CST

LOCATION: Health Related Boards
Poplar Room
227 French Landing
Nashville, TN 37243

BOARD MEMBERS

PRESENT: David Long, DPM., Chair
Paul Somers, DPM
Kathryn Riffe, DPM
Karl Fillauer, CPO

BOARD MEMBER

ABSENT: Lawrence Burns, DPM
Karen Garner, Citizen Member

BOARD STAFF

PRESENT: Elizabeth Miller, Director
Sarah Whitehead, Advisory Attorney
Barbara S. Maxwell, Administrative Director

Dr. Long, Chair, called the meeting to order at 9:00 a.m. Dr. Long conducted a roll call vote and all members were present except Dr. Burns and Ms. Garner.

Conflict of Interest

Ms. Whitehead reviewed the conflict of interest policy statement stating that Board members to recuse themselves from any matter in which they have a personal, professional or financial interest.

Consent Order

Ms. Whitehead presented a consent order to the Board for **Karin Kennedy, DPM**, for prescribing controlled medications to patients without obtaining sufficient medical histories, physical examinations, and/or diagnostic testing to justify the prescriptions she wrote; failed to appropriately monitor many of the patients to determine they were not abusing the medications; and, prescribed controlled medications and provide treatment to patients outside the scope of podiatric medicine. Ms. Whitehead said the order places Dr. Kennedy's license on probation for three years during which time she must maintain good and lawful conduct; attend a course on

prescribing controlled substances; petition the Board for an Order of Compliance for the probations of her license to be lifted; and pay all actual and reasonable costs of prosecuting this case to the extent allowed by law including all costs assessed against the Board by the Division's bureau of Investigations.

Dr. Somers made a motion, seconded by Dr. Riffe, to approve the Consent Order as written. The motion carried.

Applicant Interview with Margaret Michonski, Podiatric X-Ray Operator

Upon review of the application of **Margaret Michonski, Podiatric X-Ray Operator**, whose criminal background check contained information regarding a violation of the law. Ms. Michonski was present and discussed the conviction with the Board.

Dr. Long expressed his concern that Ms. Michonski did not disclose on her application that she did not have a conviction.

Dr. Somers made a motion, seconded by Mr. Fillauer, to table the review of Ms. Michonski's application until the February 4, 2010 meeting to allow her to obtain a copy of the final plea agreement regarding the conviction. The motion carried.

Minutes

Dr. Somers made a motion, seconded by Mr. Fillauer, to approve the July 29, 2009 Board meeting minutes as written. The motion carried.

Office of General Counsel Report

Ms. Whitehead said the rules pertaining to fees were filed with the Secretary of State on August 25, 2009 and will be effective November 23, 2009.

There are currently five (5) open disciplinary cases pertaining to the Board in OGC.

Investigative Report

There are five (5) cases against podiatrists, two (2) cases for pedorthists, and two (2) cases closed for Orthotists and sent to the Office of General Counsel.

Disciplinary Report

Ms. Stone said she is currently monitoring two practitioners, one (1) whose license is revoked and one (1) whose license is on probation.

Financial Report

The financial report is the same as last time and a new report should be ready by the end of the month.

Administrative Report

There are 230 actively licensed podiatrists, 102 actively certified podiatric x-ray operators, 170 actively licensed orthotists, 146 actively licensed prosthetists and 77 actively licensed pedorthists.

Ms. Maxwell said the Board is to discuss and review a policy statement regarding history and physical examinations prior to podiatric surgery, language for a Locum Tenens rule and Patholase Laser.

The Board reviewed a letter from **Gary Mantell, DPM**, requesting to obtain the remainder of his continuing education hours for 2009 at a January meeting of the New York State Podiatric Medical Association in early January 2010. The Board asked that Dr. Mantell be sent a letter that he must obtain the 2009 hours in 2009.

Application Review

Upon review of the application of **Anthony DeMaria, DPM**, Dr. Somers made a motion, seconded by Mr. Fillauer, to table Dr. DeMaria's application to allow him to retake Part III of the National Board of Podiatric Medical Examinations examination, as he took the exam over five (5) years ago. The motion carried.

Upon review of the application of **Bobijo Murphy, Pedorthist**, Mr. Fillauer made a motion, seconded by Dr. Somers, to approve Ms. Murphy for licensure. The motion carried.

Upon review of the application of **Chadwick McCracken, Prosthetist/Orthotist**, Mr. Fillauer made a motion, seconded by Dr. Somers, to approve Mr. McCracken for licensure. The motion carried.

Upon review of the application of **David Walker, Pedorthist**, Mr. Fillauer made a motion, seconded by Dr. Riffe, to approve Mr. Walker for licensure. The motion carried.

Newly Licensed

Mr. Fillauer made a motion, seconded by Dr. Riffe, to approve **Terry Greybeal, Prosthetist**, for licensure. The motion carried.

Policy Statement Regarding History and Physical Examinations Prior to Podiatric Surgery

Ms. Whitehead said the Board requested a policy statement regarding history and physical examinations prior to podiatric surgery due to the number of requests received by the Board.

Ms. Whitehead said there are concerns about doing a policy statement that relates to the Board's scope of practice.

Mr. Williams, TN Podiatric Medical Association, stated he gets this question a few times a year. Mr. Williams said the health care facilities rules leave it up to the hospital or surgical ambulatory center.

Dr. Riffe made a motion, seconded by Dr. Somers, to table the discussion until the next meeting in order to obtain a copy of the Center for Medicare Services on histories and physicals. The motion carried.

Discuss Amendments to Rule 1155-2-14, 1155-2-04, 1155-2-05, 1155-2-12 and 1155-2-02

Rule 1155-2-14 requires verification of enrollment in an approved minimum one-year residency program.

Rule 1155-2-04 allows an academic license to become null and void if the license holder terminates or is discharged from a residency program and reapply if the academic holder enters a different residency program.

Rule 1155-2-05 requires an applicant to submit, on forms provided by the Board, evidence of enrollment in or completion of at least a one-year residence program approved by the Council on Podiatric Medical Examination or its successor organization.

Rule 1155-2-12 requires persons who are full-time residents in a graduate training program approved by the Council on Podiatric Medical Education who have been students of a Podiatry College during the year they obtain their Tennessee license shall be exempt from the CME requirements during that calendar year.

Rule 1155-2-02 allows a licensed podiatrist to perform ankle surgery subject to the provisions of T.C.A. §63-3-101 and Title 68 of the T.C.A., maintain proof of compliance with T.C.A. §63-3-101 at their practice location, as it may be inspected by the Board or its authorized representative.

Discuss Rules 1155-2-08, 1155-2-11, 1155-4-08, 1155-4-11, 1155-3-07 and 1155-3-02

Rule 1155-2-08 and 1155-4-08 allows examinations required for licensure by the Board to be effective for five (5) years from the date on which the exam was completed. If an applicant has taken the exam prior to the five year cut-off he/she must retake the examination.

Rule 1155-2-11, 1155-4-11 and 1155-3-07 requires licensees who have been retired for at least twelve (12) months of have failed to renew their license for at least twelve (12) months, subject to a criminal background and database check before license reactivation.

Rule 1155-3-02 requires the applicant to successfully complete an examination approved by the Board and correctly answer at least seventy percent (70%) of the questions on that examination.

The effectiveness of this examination and therefore eligibility for licensure is five (5) years from the date on which the exam was successfully completed.

Discuss Rule 1155-2-.07 regarding Locum Tenens License

Rule 1155-2-.07 pertaining to the Locum Tenens license allows an applicant who holds a license in good standing in another state and indicates an intended residence outside the State of Tennessee but proposes to practice intermittently within the physical boundaries of the State of Tennessee, shall in the discretion of the Board be issued a Locum Tenens license.

The Board discussed the licensure procedures, the timeframe to obtain a Locum Tenens license, allowing Locum Tenens licenses to be effective for ninety (90) days and be renewed one (1) time.

Discuss Use of Patholase Laser

Ms. Whitehead said the Board cannot issue advice unless it comes before the board as an advisory ruling. Ms. Whitehead said the issue was regarding advertising and FDA approval which the Board cannot advise on Federal laws. Licensed podiatrists should take necessary steps to determine if a medical device is compliant with local, state and federal laws.

Ms. Maxwell and I are requesting we go back to the proposed rule amendment 1155-2-.12(5) where it states students of a Podiatry College during the year they obtain their Tennessee license shall be exempt from the CME requirements during that calendar year. It then states the request for exemption shall be submitted in writing to the Board's administrative office at the beginning of the calendar year, which should be deleted from the amendment..

With no other Board business to conduct, Mr. Fillauer made a motion, seconded by Dr. Somers to adjourn at 11:45 a.m. The motion carried.

Approved by the Board of Podiatric Medical Examiners on this the 3rd day of February 2010.