

TENNESSEE BOARD OF PODIATRIC MEDICAL EXAMINERS

**DATE:** July 19, 2007  
**TIME:** 9:00 a.m.  
**LOCATION:** Health Related Boards  
Iris Meeting Room  
227 French Landing  
Heritage Place – Metro Center

**BOARD MEMBERS**

**PRESENT:** Kathryn Riffe, DPM, Chair  
Berkeley Nicholls, DPM, Secretary  
Paul Somers, DPM  
Lawrence Burns, DPM  
Karl Fillauer, CPO  
Karen Garner, Consumer Member

**STAFF**

**PRESENT:** James Hill, Board Administrator  
Ernest Sykes, Advisory Attorney  
Nicole Armstrong, Advisory Attorney  
Barbara S. Maxwell, Administrative Director  
Schean Belton, Litigating Attorney

Dr. Riffe, chair, called the meeting to order at 9:10 a.m. A sufficient number of members were present to constitute a quorum.

Dr. Riffe questioned why the correspondence wasn't sent to her. Ms. Armstrong informed Dr. Riffe that the hearing material is under correspondence and wasn't sent to the board chair because she does not need to have prior knowledge of any matter coming before the board.

**Review Minutes**

Upon review of the April 18, 2007 minutes, Ms. Garner made a motion, seconded by Dr. Somers, to approve the minutes as written. The motion carried.

**Conflict of Interest**

Ms. Armstrong stated she is sitting in for Ernie Sykes who is on his way. Ms. Armstrong reviewed the conflict of interest policy with the Board members asking them to disclose any knowledge of matters coming before the Board to determine if there is a potential conflict of

interest. Ms. Armstrong said if there is a conflict to interest the Board member will be asked to recuse him or herself and leave the hearing room during the proceeding.

#### Contested Case Hearing for Monica Smedley, DPM

Ms. Belton, litigating attorney, presented a case before the Board for Monica Smedley, DPM. Judge Ann Johnson presided over the hearing.

Ms. Belton made a motion to proceed in default as Dr. Smedley had not responded to any correspondence sent to her regarding the hearing. Ms. Belton stated they sent letters to three addresses found in Westlaw, including the most current address on her license renewal. Ms. Belton stated the notice of charges were sent via regular mail and return receipt requested. Ms. Belton said the regular mail did not come back. Ms. Belton said she also made attempts to contact Dr. Smedley by telephone.

Upon review of the notice of charges, all Board members stated they had no prior knowledge of the facts of the case.

Ms. Belton stated that Dr. Smedley entered into an agreed order in November of 2002 in which Dr. Smedley agreed to have her license suspended for six (6) months, pay all costs, licensure fees and obtain a substance abuse evaluation.

Ms. Belton called Juanita Stone, Discipline Coordinator for the Office of Investigations, to the stand. Ms. Stone said she corresponded with the practitioner requesting she pay her civil penalties and assessed costs and comply with the requirements of the order but did not receive a response. Ms. Stone said as of 8:00 a.m. this morning the costs have not been paid.

Ms. Belton said Dr. Smedley was given a fair amount of time to pay costs and, based on the evidence, proof and testimony heard by the Board, requested the Board to revoke Dr. Smedley's license.

Upon review of the findings of facts, Dr. Riffe made a motion, seconded by Dr. Somers, to adopt the findings of facts as written. A roll call vote was conducted and all Board members voted in the affirmative.

Upon review of the conclusions of law, Dr. Riffe made a motion, seconded by Mr. Fillauer, to accept the conclusions of law as written. The motion carried.

Upon review of the order, Dr. Riffe made a motion, seconded by Dr. Somer, to revoke Dr. Smedley's license to practice podiatric medicine in the State of Tennessee and require her to pay all costs allowed by the law associated with the prosecution of this matter. The motion carried.

Dr. Riffe stated the policy statement for this action is to protect the health, safety and welfare of persons living in, working in, or visiting the State of Tennessee.

## **Office of General Counsel Report**

Mr. Sykes apologized for being late. Mr. Sykes said Rules 1155-2-.01, .03, .11, .12, .19 and .22 pertaining to titles, advisory rulings, screening panels and PC-LLCs became effective June 6, 2007.

Mr. Sykes said Rules 1155-2-.08, .12 and .19 regarding the examination score time limit, continuing education for prescribing and stays and recommendations was sent to the Attorney General March 16, 2007 where they remain.

Mr. Sykes said OGC currently has one (1) open disciplinary case pertaining to Podiatrists.

Mr. Sykes stated he responded to Dr. Haverly's letter to Dr. Riffe regarding certification in pain management and qualifications for practitioners who may or may not qualify as expert witnesses. Mr. Sykes said the Board lacks the statutory authority to issue a certification in any sub-specialty such as chronic pain management or prescribe qualifications for who may and may not be an expert witness.

## **Investigative Report**

Ms. Stone reviewed the investigative report stating five (5) complaints against podiatrists have been received year to date. Ms. Stone said three (3) complaints have been closed, one (1) with no action, one (1) with a letter of concern and one (1) referred to the Office of General Counsel.

Dr. Riffe asked if the Board's new professions would come before the Board under separate cover.

Ms. Stone stated all complaints will be broken down by profession.

## **Disciplinary Report**

Mr. Hill reviewed the disciplinary report stating there are currently three (3) practitioners being monitored by investigations. Mr. Hill said if the practitioners being monitored fail to comply with the conditions of the order a new complaint will be filed against the practitioner and it will come before the Board as a contested case hearing.

## **Financial Statement**

Mr. Hill said the Board has a projected cumulative carryover of \$176,824.36 as of June 30, 2007, which is high because of the new professions associated with the Board.

Dr. Riffe asked Mr. Hill to request that Lisa Tittle attend the next Board meeting to discuss the financial report.

## Administrative Report

Mr. Hill said 199 of the 227 active podiatrists reside in Tennessee. Mr. Hill said there are 101 retired podiatrists and 142 failed to renew.

Mr. Hill said 108 of the 115 active x-ray operators reside in Tennessee. Mr. Hill said there are 6 retired and 88 failed to renew.

Mr. Hill said 79 of the 101 active orthotists reside in Tennessee; 63 of the 82 active prosthetists reside in Tennessee; and, 37 of the 39 active pedorthists reside in Tennessee.

## Division Rules Coordinator

Nothing to report at this meeting.

## Review/Approve Applications for Licensure

Upon review of the application for **Dr. Richard Koenig**, Dr. Somers made a motion, seconded by Dr. Nicholls to request that Dr. Koenig attend the Board's next meeting and provide additional information regarding his disciplinary action. The motion carried.

Upon review of the application for **Dr. Angela Dickens**, Dr. Burns made a motion, seconded by Dr. Nicholls, to approve Dr. Dickens for licensure. The motion carried.

Upon review of the application for **Dr. Melissa Gaffney**, Dr. Burns made a motion, seconded by Dr. Nicholls, to approve Dr. Gaffney for licensure. The motion carried.

Upon review of the applications for **Don Moore** and **Dennis Stanek**, Dr. Riffe made a motion, seconded by Mr. Fillauer, to approve Mr. Moore and Mr. Stanek for licensure as orthotists. The motion carried.

Upon review of the application for **Chris Stovall**, Dr. Riffe made a motion, seconded by Dr. Burns, to request more information regarding the answer he gave to the questions on page four of the application. The motion carried.

Upon review of the applications for **William Mullins**, **Tien Tran** and **Roger Duckett**, Dr. Nicholls made a motion, seconded by Dr. Burns, to approve Mr. Mullins, Mr. Tran and Mr. Duckett for licensure as prosthetists. Mr. Fillauer recused himself from voting on William Mullins. The motion carried.

The Board reviewed the applications for **Dr. Ann Goranson** and **Dr. Gina Mendoza**, who are requesting refunds from the Board as they do not have CPEDS certification and do not meet the qualifications for licensure as pedorthists. Upon review, the Board asked Mr. Sykes to send a letter to both applicants stating the Board does not have the authority to refund their fees, pursuant to Rule 1155-2-.06(1), but will keep their applications open for sixty (60) days if they wish to obtain CPEDS certification.

Upon review of the correspondence from **Dr. James Gilley**, the Board determined Dr. Gilley did not meet the qualifications for licensure as a podiatrist being grandfathered in under the five years of work experience. Dr. Riffe made a motion, seconded by Dr. Somers, to give Dr. Gilley sixty (60) days to submit documentation of his certification as a podiatrist, and to deny Dr. Gilley licensure if he fails to submit the documentation within the sixty (60) days. The motion carried.

**Ratify Newly Licensed Podiatrists, Podiatric X-Ray Operator, Orthotists, Prosthetists and Pedorthists**

Dr. Nicholls made a motion, seconded by Dr. Somers to ratify the following newly licensed podiatrists, podiatric x-ray operator, orthotists, prosthetists and pedorthists:

Podiatrists

**Christopher G. Frazier**  
**Melissa Gaffney**

Podiatric X-Ray Operator

**Rose Jones**

Orthotists

**Marcus Baker**  
**Kaylon Bateman**  
**James Brothers**  
**Don Moore**  
**Garry Ogilvie**  
**Lawrence Owens**  
**Bryan Ploughe**  
**Sanjay Upadhyaya**  
**William Watson**  
**David Wiegand**

Prosthetists

**David Baggett**  
**Marcus Baker**  
**Kaylon Bateman**  
**Roger Duckett**  
**William Mullins**  
**Lawrence Owens**  
**Tien Tran**  
**William Watson**

**David Wiegand**

Pedorthists

**Randall Coffman**

**Randall DeBord**

**Ken Huffman**

**Morris Hunter**

**Robert Patai**

The motion carried.

**Ratify Closed Files**

Upon review of the following closed files, Dr. Nicholls made a motion, seconded by Dr. Somers, to ratify the following closed files:

**Dixie Dallas, DPM**

**Samual Scott, DPM**

**Amanda Boberg, X-Ray Operator**

The motion carried.

**Review Correspondence**

The Board reviewed a letter from **Matt Speyer, MD**, Chief of Staff at Skyline Medical Center, requesting an opinion regarding surgery that required additional surgery beyond the ankle.

Mr. Sykes said he will send a letter to Dr. Speyer asking him to have the podiatrist who is scrutinizing the procedure to submit the request, as the Board cannot formally respond to a request from a medical doctor.

**Peer Assistance Program**

Mr. Hill stated he obtained information regarding peer assistance from TNPAP, Tennessee Medical Foundation and Physicians Recovery Network.

Upon discussion, Dr. Somers made a motion, seconded by Dr. Burns, to submit a request for proposal for a peer assistance program. The motion carried.

**Reschedule the January and July 2008 Meeting Dates**

Due to conflict with the meeting rooms, the Board rescheduled the January and July 2008 meetings to January 24 and July 31, 2008.

### **Criminal Background Check Policy**

Mr. Sykes said the Office of General Counsel (OGC) is working on a policy for applicants who fail the criminal background check twice due to unreadable prints. Mr. Sykes said he will have the policy for the Board at the next meeting.

With no other Board business to conduct, Dr. Burns made a motion, seconded by Dr. Somers, to adjourn at 12:15 p.m. The motion carried.

**Ratified by the Tennessee Board of Podiatric Medical Examiners on October 4, 2007**