

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

STATE BOARD OF PODIATRY

TIME: 10:30 A.M.

Held at

PENNSYLVANIA DEPARTMENT OF STATE

2601 North Th Street

One Penn Center, Board Room C

Harrisburg, Pennsylvania 17110

as well as

VIA MICROSOFT TEAMS

Wednesday, June 15, 2022

State Board of Podiatry
June 15, 2022

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

BOARD MEMBERS:

Arion R. Claggett, Acting Commissioner, Bureau of Professional and Occupational Affairs - Absent
Michael J. Paris, D.P.M., M.B.A., Chairman
Robert B. Weber, D.P.M., J.D., M.B.A., Vice Chairman
Dia D. McCaughan, D.P.M., Secretary
Eric B. Greenberg, D.P.M., J.D.
William D. Fetchik, D.O.

BUREAU PERSONNEL:

Todd P. Kriner, Esquire, Board Counsel
Timothy J. Henderson, Esquire, Board Prosecution Liaison
Paul J. Jarabeck, Esquire, Senior Board Prosecutor
Nichole Wray, Board Administrator
Marc Farrell, Deputy Policy Director, Department of State

ALSO PRESENT:

Vincent Muscarella, DPM, FACFAS, Center for Advanced Orthopedics
Seth Rolko, Democratic Executive Director, Senate Consumer Protection & Professional Licensure Committee

1 ***

2 State Board of Podiatry

3 June 15, 2022

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
6 9:30 a.m. the Board entered into Executive Session
7 with Todd P. Kriner, Esquire, Board Counsel, for the
8 purpose of conducting quasi-judicial deliberations on
9 matters listed under the Report of Board Counsel and
10 Report of Prosecution. The Board returned to open
11 session at 10:30 a.m.]

12 ***

13 The regularly scheduled meeting of the State
14 Board of Podiatry was held on Wednesday, June 15,
15 2022. Michael J. Paris, D.P.M., M.B.A., Chairman,
16 called the meeting to order at 10:30 a.m.

17 ***

18 Roll Call/Introduction of Attendees

19 [Nichole Wray, Board Administrator, provided an
20 introduction of the Board members, staff, and audience
21 in attendance.]

22 ***

23 [Nichole Wray, Board Administrator, reminded everyone
24 the meeting was being recorded, and voluntary
25 participation constitutes consent to be recorded.]

1 ***

2 Approval of minutes of the April 20, 2022 meeting

3 CHAIRMAN PARIS:

4 Approval of minutes from the last
5 meeting. I assume everyone had a chance
6 to look over the minutes.

7 Does anyone have anything they want
8 to discuss regarding those minutes?

9 If not, could we get a motion to
10 approve the minutes?

11 DR. GREENBERG:

12 I'll make a motion to approve the minutes
13 from the last meeting.

14 DR. MCCAUGHAN:

15 I'll second the motion.

16 CHAIRMAN PARIS:

17 If there is no other discussion, could we
18 have Niki do a roll call vote?

19
20 Dr. Paris, yes; Dr. Weber, yes; Dr.
21 McCaughan, yes; Dr. Greenberg, yes; Dr.
22 Fetchik, yes.

23 [The motion carried unanimously.]

24 ***

25 [Todd P. Kriner, Esquire, Board Counsel, noted the

1 Board met in Executive Session to engage in quasi-
2 judicial deliberations on the matters listed in the
3 Report of Board Counsel and Report of Prosecution.]

4 ***

5 Report of Prosecutors
6 [Timothy J. Henderson, Esquire, Board Prosecution
7 Liaison, presented the Consent Agreement for Case No.
8 21-44-017463.]

9 MR. KRINER:

10 Is there a motion to adopt the Consent
11 Agreement at Case No. 21-44-017463?

12 DR. GREENBERG:

13 I'll make a motion to accept the Consent
14 Agreement.

15 DR. MCCAUGHAN:

16 I'll second the motion.

17 CHAIRMAN PARIS:

18 Before we vote, would anyone like to
19 discuss the motion? If not, Niki if you
20 wouldn't mind taking the roll call vote.

21

22 Dr. Paris, yes; Dr. Weber, yes; Dr.
23 McCaughan, yes; Dr. Greenberg, yes; Dr.
24 Fetchik, yes.

25 [The motion carried unanimously. The Respondent's

1 name is Richard David Gebrosky, D.P.M.

2 ***

3 Report of Board Counsel

4 MR. KRINER:

5 The only thing I have is the Draft
6 Adjudication and Order at Case No. 21-44-
7 001179, Lawrence J. Kansky, D.P.M.

8 Is there a motion to adopt the Draft
9 Adjudication and Order as drafted by
10 counsel?

11 DR. GREENBERG:

12 I'll make a motion to adopt the
13 Adjudication drafted by counsel.

14 DR. MCCAUGHAN:

15 I'll second the motion.

16 CHAIRMAN PARIS:

17 Would anyone like to discuss the motion?
18 Niki, could we get a roll call vote,
19 please?

20
21 Dr. Paris, yes; Dr. Weber, yes; Dr.
22 McCaughan, yes; Dr. Greenberg, yes; Dr.
23 Fetchik, yes.

24 [The motion carried unanimously.]

25 ***

1 [Todd P. Kriner, Esquire, Board Counsel, informed
2 Board members that other boards have received calls
3 regarding the status of their license and credit card
4 information. He stated the Bureau of Professional and
5 Occupational Affairs (BPOA) will not call licensees
6 asking for payment over the phone and encouraged Board
7 members to not give any personal or financial
8 information over the phone. He recommended everyone
9 contact their local and state police if they have been
10 a victim of the scam.]

11

12 Report of Regulatory Counsel - Regulatory Status
13 Report

14 [Todd P. Kriner, Esquire, Board Counsel, noted 16A-
15 4417 regarding continuing education is up for approval
16 by the Independent Regulatory Review Commission (IRRC)
17 tomorrow and would inform the Board of their decision.

18 Mr. Kriner stated regulatory counsel is reviewing
19 the annex and preamble for 16A-449 regarding
20 acupuncture and 16A-4419 regarding licensure by
21 endorsement.

22 Mr. Kriner noted he is drafting 16A-4418,
23 administration and prescription of drugs; 16A-44XX,
24 ABC-MAP opioid education; 16A-448, sexual misconduct;
25 and 16A-4411, volunteer license. He commented that

1 none of those regulations are great in detail and
2 plans on pushing those through.

3 Mr. Kriner mentioned that he is also drafting the
4 radiographic assistant regulation.]

5 ***

6 Report of Regulatory Counsel - Other

7 [Todd P. Kriner, Esquire, Board Counsel, referred to
8 House Bill 1440 of 2021, noting it might provide a
9 pathway for assistant personnel who do not want to
10 compulsorily join the association and is basically an
11 amendment to the Medical Practice Act. He is hoping
12 to have the annex and preamble to the Board for
13 approval by the end of the year.

14 Mr. Kriner provided a brief description of the
15 radiological assistant regulation, noting the Board
16 needs to set up a procedure where the Board can
17 entertain different exams approved by the Board. He
18 stated the old regulation is written in a way where
19 the Board has the authority to do that and is not held
20 to just one particular group.

21 Mr. Kriner stated House Bill 1440 of 2021 is
22 amending the Medical Practice Act and carved out an
23 exemption, which specifically ties to podiatry
24 regarding auxiliary personnel under the supervision of
25 a doctor of podiatric medicine who is permitted to

1 perform X-rays under the Podiatry Practice Act Section
2 21.2. He mentioned it gives the board more leeway as
3 a Board to who they are going to approve and do not
4 have to be licensed by a specific agency.

5 Dr. Weber requested information as to whether
6 prior training would be legal in a podiatrist's
7 office.

8 Mr. Kriner explained that someone who has
9 certification through the Board of Medicine, Board of
10 Osteopathic Medicine, or Board of Chiropractic would
11 be accepted. He mentioned that the dental board is
12 not part of the regulation and is something that would
13 come before the Board for a vote. He stated House
14 Bill 1440 may answer some questions with their
15 definition, but it is still a gray area.

16 Chairman Paris commented that the Board of
17 Dentistry is very strict with their rules with
18 continuing education concerning radiology safety. He
19 noted their regulations do not include dentistry but
20 mentioned that a dental assistant in their office has
21 more knowledge of X-rays than anybody in our office
22 and was not certain whether she would be able to take
23 X-rays.

24 Paul J. Jarabeck, Esquire, Senior Board
25 Prosecutor, discussed his knowledge working with the

1 Board of Dentistry, where the radiology certification
2 is done by the Dental Assisting National Board (DANB)
3 and that it is this national organization that does
4 the testing. The Board of Dentistry does not engage
5 in any testing itself. He explained that there is no
6 renewal and no requirement of the Board for continuing
7 education once an individual receives that
8 certification, which is understood to be good for
9 life. He could not comment on what requirements DANB
10 may have to maintain certification.

11 Mr. Kriner commented that the Board does not
12 require proof of renewal certification and only
13 requires proof of initial certification but believed
14 the Department of Environmental Protection (DEP) or
15 whoever manufactured the equipment itself required
16 some sort of continuing education.

17 Mr. Jarabeck stated the DEP looks at
18 certification of equipment. He noted having
19 interaction with DEP concerning radiology, where they
20 do their certification check and then there is a
21 registration fee that would continue with the
22 machinery being reviewed and certified.

23 Mr. Kriner referred to § 29.82(a)(3), where a
24 person has passed an examination approved and
25 administered by the Board. He noted it would have to

1 be rewritten to remove "administered by the Board" to
2 "the person has passed an examination approved by the
3 Board." He suggested the Board review the dental
4 assistant exam and decide whether they would want to
5 approve the exam.]

6 ***

7 Report of Board Chair

8 [Michael J. Paris, D.P.M., Chairman, addressed DEP
9 radiology regulations and requirements. He noted
10 difficulty with finding the information and believed a
11 lot of podiatrists in Pennsylvania do not know how to
12 be compliant with the DEP. He stated DEP's Bureau of
13 Radiation Protection has regulations regarding not
14 just the machinery but the operators of the machines.

15 Chairman Paris researched the issue and provided
16 information, including the need to register and pay a
17 fee, place signs in their office that give information
18 about the machines, and the person who registers the
19 machines has to make sure all of the operators of the
20 machines receive initial training and continuing
21 education in topics they list within their regulation.

22 Chairman Paris referred to Title 25 of the Pa.
23 Code, noting there are 11 different topics of the
24 umbrella of radiology safety that have to be
25 addressed. He noted continuing education for

1 operators must occur at least every four years, and
2 continuing education documentation must be maintained
3 for at least five years.

4 Chairman Parish mentioned the Bureau of Radiation
5 Protection has a list of resources where they take
6 care of registry, training, and continuing education.
7 He noted one of their resources was the American
8 Society of Podiatric Medical Assistants (ASPMA) and
9 colleges and universities were also mentioned
10 regarding education.

11 Chairman Paris stated there was no language for
12 the podiatry section of the regulation that the
13 radiology education has to be podiatry-specific. He
14 noted the courses just need to meet the requirements
15 of the regulations and could be online, in a
16 classroom, or in-service training.

17 Chairman Paris commented that the same problem
18 exists regarding taking X-rays when a podiatrist moves
19 into Pennsylvania and somebody tells them that they
20 have these requirements and are not a member of the
21 Pennsylvania Podiatric Medical Association (PPMA).

22 Chairman Paris noted the importance of opening
23 doors as far as other testing and other ways of
24 continuing education that would help podiatrists
25 fulfill the requirements of the DEP regulation. He

1 also noted the importance of podiatrists knowing they
2 have to comply with two separate regulations.

3 Chairman Paris addressed making information more
4 accessible to licensees and suggested placing links on
5 their website to the DEP regulations and asking PPMA
6 to include something on their website as well for the
7 safety of the citizens of Pennsylvania.

8 Ms. Wray commented that she did not see a problem
9 with placing a link from the Board's website to the
10 DEP's website for licensees. She also offered to
11 check to see if there is something somewhere else but
12 not easily found on their website that directs them
13 there.

14 Dr. McCaughan addressed a DEP onsite inspection,
15 where she was told logs have to be kept, errors need
16 to be logged, and four continuing education credits
17 are required every four years and must be kept in a
18 separate binder upon inspection.

19 Mr. Jarabeck stated there is not a general
20 radiation inspection or the authority to walk into a
21 facility to inspect machines and certification. He
22 explained that they are complaint-driven and would
23 investigate a complaint that came to them directly.]

24 ***

25 Report of Acting Commissioner - No Report

1 ***

2 Report of Board Administrator - No Report

3 ***

4 Continuing Education Program Approval - Jefferson
5 Health Northeast Podiatry Grand Rounds - June 16,
6 2022

7 CHAIRMAN PARIS:

8 Could we get a motion to approve this
9 program?

10 DR. WEBER:

11 So moved.

12 DR. GREENBERG:

13 I'll second.

14 CHAIRMAN PARIS:

15 Could we get a roll call vote, please,
16 Niki?

17
18 Dr. Paris, yes; Dr. Weber, yes; Dr.
19 McCaughan, yes; Dr. Greenberg, yes; Dr.
20 Fetchik, yes.

21 [The motion carried unanimously.]

22 ***

23 For the Board's Information/Discussion - Board Meeting
24 Dates

25 [Michael J. Paris, D.P.M., Chairman, noted 2022 and

1 2023 Board meeting dates.]

2

3 For the Board's Information/Discussion - Old

4 Business/New Business - Legislative Initiative Form

5 [Todd P. Kriner, Esquire, Board Counsel, addressed the

6 Legislative Initiative Form concerning the process of

7 having the definition of physician to include

8 podiatrist. He stated the Statutory Construction Act

9 of 1972 would need amended.

10 Mr. Kriner asked whether Board members wanted to
11 move forward with this or maybe amend the Podiatry Act
12 to include a definition of a podiatric physician but
13 noted there has been opposition from the Board of
14 Medicine and Board of Osteopathic Medicine when it
15 comes to changing the definition.

16 Mr. Kriner further explained that the proposal is
17 changing the section in the Statutory Construction
18 Act, not just the Podiatry Board regulations. He
19 stated it is changing the definition where it
20 specifically references medical doctors and
21 osteopathic doctors to change it to include
22 podiatrists.

23 Dr. Greenberg commented that the whole purpose
24 for the change to use the term podiatric physician is
25 so podiatry services are no longer a discretionary

1 service for people who are receiving welfare and
2 excluded from services if there is a budget cut. He
3 recommended staying on track with the proposal Mr.
4 Kriner presented.

5 Chairman Paris noted that the bottom line is
6 going the one path by identifying themselves as
7 physicians and having everyone else identifying them
8 as physicians.

9 Mr. Kriner asked whether Board members wanted to
10 move forward with the Legislative Request Form, noting
11 the arguments expressed are all in the form. He
12 stated it would amend the act that includes the
13 definition of physician as a medical doctor or an
14 osteopathic doctor to include a podiatric doctor.

15 Vincent Muscarella, DPM, FACFAS, Center for
16 Advanced Orthopedics, addressed difficulties he
17 experiences being seen as a non-physician. He
18 mentioned being asked to join an orthopedic group,
19 where the office itself has difficulty scheduling
20 cases for him the same way they scheduled them for the
21 orthopedic surgeons because of some places calling
22 podiatrists non-physicians.

23 Dr. Muscarella noted it is a big problem being
24 seen by office staff and patients themselves as to why
25 they are treated differently than fellow doctors. He

1 commented that a podiatrist can repair an Achilles
2 tendon or an ankle fracture but cannot tell someone
3 they need assistance for parking for a month or sign
4 off on a history & physical (H&P) before the patient
5 goes back to the operating room in certain hospitals.

6 Dr. Muscarella commented that some places treat
7 podiatrists so highly and that he is excited and
8 thrilled that his colleague orthopedic doctors asked
9 him to join them as an equal. He mentioned that his
10 colleagues also do not understand why podiatrists are
11 not considered physicians in certain circumstances.

12 Dr. Greenberg stated podiatrists were performing
13 major surgery and cannot sign a handicap placard or
14 any number of other issues because of the definition,
15 and the whole point of this definitional change
16 specifically goes to the safety and health of the
17 residents in Pennsylvania.]

18 DR. GREENBERG:

19 I make a motion to move forward with the
20 legislative initiative.

21 DR. FETCHIK:

22 I will second the motion.

23 CHAIRMAN PARIS:

24 Niki, could we have a roll call vote,
25 please?

1

2

Dr. Paris, yes; Dr. Weber, yes; Dr.

3

McCaughan, yes; Dr. Greenberg, yes; Dr.

4

Fetchik, yes.

5

[The motion carried unanimously.]

6

7

For the Board's Information/Discussion - Old

8

Business/New Business - Updates to Approved

9

Pharmaceuticals

10

[Eric B. Greenberg, D.P.M., J.D., addressed the

11

importance of updating the therapeutic drug list of

12

medications that may be administered or prescribed by

13

podiatrists. After Board discussion, anticoagulants,

14

antidepressants, and anticonvulsants were found not to

15

be on the list.

16

Dr. Muscarella commented that orthopedic

17

colleagues in his practice have standardized admission

18

orders for the hospitals when doing a total knee or

19

ankle surgery, and anticoagulants are only listed as

20

part of their orders. He addressed difficulties with

21

not being able to prescribe medication, noting that

22

they are teaching students and residents how to use

23

them but they are not using them in the state of

24

Pennsylvania.

25

Dr. Muscarella commented that podiatrists send

1 patients to neurologists or pain management doctors
2 for an evaluation and some of the recommendations are
3 for the podiatrist to take over the care with many of
4 the medications listed.

5 Dr. Greenberg suggested Board members review the
6 list for the next meeting to discuss what could be
7 included to update the current list.

8 Chairman Paris asked whether podiatrists have the
9 authority to give themselves permission to prescribe
10 different medications.

11 Mr. Kriner stated that podiatrists would be able
12 to prescribe the medications as long as it is within
13 their scope of practice and already included under
14 therapeutic drugs in § 29.41. He offered to take a
15 closer look at the therapeutic drug list because it
16 may not have been amended since 1990. He noted the
17 addition of anticoagulants, anticonvulsants, and
18 antidepressants would be an amendment to the
19 regulation.]

20

21 Miscellaneous

22 [Michael J. Paris, D.P.M., Chairman, addressed remote
23 learning continuing education and reported 40 other
24 states now allow 100 percent remote learning for
25 continuing education and believed that number would

1 continue to grow.

2 Dr. Greenberg noted that he does not see any
3 reasonable explanation as to why sanctions should
4 remain, especially when medical doctor (MD) or doctor
5 of osteopathic medicine (DO) colleagues have been able
6 to achieve that to their discretion for years.

7 Ms. Wray presented a comment from Mr. Farrell on
8 chat, stating that IRRC would be voting on the
9 continuing education regulation, and Board members
10 should know either way tomorrow.

11 Ms. Wray informed everyone that the meeting would
12 be livestreamed starting at 10 a.m. and offered to
13 email Board members the link after the meeting.]

14 ***

15 Adjournment

16 CHAIRMAN PARIS:

17 Can we have a motion to adjourn this
18 meeting?

19 DR. GREENBERG:

20 I'll make a motion to adjourn this
21 meeting.

22 DR. MCCAUGHAN:

23 I'll second the motion.

24 CHAIRMAN PARIS:

25 All in favor? The meeting is officially

1 adjourned.

2 [The motion carried unanimously.]

3 ***

4 [There being no further business, the State Board of
5 Podiatry Meeting adjourned at 11:45 a.m.]

6 ***

7

8 CERTIFICATE

9

10 I hereby certify that the foregoing summary
11 minutes of the State Board of Podiatry meeting, was
12 reduced to writing by me or under my supervision, and
13 that the minutes accurately summarize the substance of
14 the State Board of Podiatry meeting.

15

16

17



18

Samantha Bruer,

19

Minute Clerk

20

Sargent's Court Reporting

21

Service, Inc.

22

23

24

25

26

STATE BOARD OF PODIATRY
REFERENCE INDEX

June 15, 2022

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

TIME	AGENDA
9:30	Executive Session
10:30	Return to Open Session
10:30	Official Call to Order
10:30	Roll Call/Introduction of Attendees
10:35	Approval of Minutes
10:37	Report of Prosecutors
10:37	Report of Board Counsel
10:38	Report of Regulatory Counsel
10:58	Report of Board Chair
11:09	Continuing Education Program Approval
11:11	For the Board's Information/Discussion
11:41	Miscellaneous
11:45	Adjournment