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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
VIA VIDEOCONFERENCE**

TIME: 10:31 A.M.

Wednesday, February 16, 2022

State Board of Podiatry
February 16, 2022

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BOARD MEMBERS:

Arion R. Claggett, Acting Commissioner, Bureau of
Professional and Occupational Affairs
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 Kriner, Esquire, Board Counsel
Christopher K. McNally, Esquire, Board Prosecution
Liaison
Timothy J. Henderson, Esquire, Board Prosecutor
Paul J. Jarabeck, Esquire, Senior Board Prosecutor
Nichole Wray, Board Administrator
Michael Merten, Legal Intern

ALSO PRESENT:

Katie Merritt, LSW, Director of Policy and Planning,
Pennsylvania Insurance Department
David Buono, Deputy Insurance Commissioner, Office of
Market Regulation, Pennsylvania Insurance Department
Sandy Ykema, Esquire, J.D., Senior Health Insurance
Counsel, Pennsylvania Insurance Department
Jen Smeltz, Republican Executive Director, Senate
Consumer Protection & Professional Licensure
Committee
Kathryn Witherow

1 ***

2 State Board of Podiatry

3 February 16, 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 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 Prosecutorial Division. The Board returned
11 to open session at 10:30 a.m.]

12 ***

13 The regularly scheduled meeting of the State
14 Board of Podiatry was held on Wednesday, February 16,
15 2022. Michael J. Paris, D.P.M., M.B.A., Chairman,
16 called the meeting to order at 10:31 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 that the meeting was being recorded, and those who
25 remained on the line were giving their consent to be

1 recorded.]

2

3 Appointment - Pennsylvania Insurance Department - No
4 Surprises Act

5 [Katie Merritt, LSW, Director of Policy and Planning,
6 Pennsylvania Insurance Department (PID), presented to
7 the Board to discuss the No Surprises Act that became
8 effective January 1, 2022. She stated Governor Wolf
9 charged the Pennsylvania Insurance Department with
10 being the lead agency to implement the act and to work
11 with sister agencies to coordinate and enforce it.

12 Ms. Merritt mentioned that the Pennsylvania
13 Insurance Department works closely with the Department
14 of State, Department of Health, Department of Human
15 Services, and the Department of Drug and Alcohol
16 Programs to collaboratively ensure consumers are not
17 being provided surprise medical bills.

18 David Buono, Deputy Insurance Commissioner,
19 Office of Market Regulation, Pennsylvania Insurance
20 Department, informed the Board that the material
21 presented was prepared by the Commonwealth of
22 Pennsylvania Insurance Department based on the law,
23 regulations, and guidance as of December 1, 2021.

24 Mr. Buono addressed the No Surprises Act (NSA),
25 noting that the disclosure requirement applies to all

1 health care providers, the provider directory
2 requirement applies to all healthcare providers
3 applicable only to providers in-network for major
4 medical insurance policies, and the Good Faith
5 Estimate requirement applies to all health care
6 providers.

7 Mr. Buono commented that health plans that cover
8 any benefits for emergency services, including air
9 ambulance, under the No Surprises Act, requires
10 emergency services to be covered without any prior
11 authorization regardless of whether a provider or
12 facility is in-network.

13 Mr. Buono also commented that if a health plan
14 covers any benefits for nonemergency services related
15 to a visit in an in-network facility, the No Surprises
16 Act requires patients with little or no control over
17 who provides their care be protected.

18 Mr. Buono stated ancillary providers, such as
19 labs or doctors, involved in a surgery that the
20 patient does not select may not balance bill. He
21 noted cost-sharing for ancillary providers is treated
22 as in-network. He commented that the No Surprises Act
23 protects people from unexpected bills for emergency
24 services, air ambulance services, and certain
25 nonemergency services related to a visit to a

1 facility.

2 Mr. Buono mentioned that emergency ground
3 ambulance services are not included and deferred to
4 further study at the federal level. He stated
5 nonemergency services for some ancillary care at an
6 in-network facility is treated as in-network in all
7 circumstances. He reported that other nonemergency
8 services may only be billed as out-of-network with
9 advanced notice and consent from the patient.

10 Mr. Buono noted the No Surprises Act limits the
11 high out-of-network cost-sharing, where patient cost-
12 sharing, such as coinsurance or deductible, cannot be
13 higher than if such services were provided by an in-
14 network doctor and any coinsurance or deductible must
15 be based on in-network provider rates.

16 Mr. Buono stated No Surprises Act billing
17 protection applies if coverage is through an employer,
18 state-based marketplace Pennie, or directly through an
19 individual market health insurance company. He
20 mentioned that the act does not apply to Medicare,
21 Medicaid, Indian Health Services, Veterans Affairs, or
22 TRICARE.

23 Mr. Buono addressed plans that do not have the
24 balance billing protection, including indemnity or
25 accepted benefit plan enrollees because it is not

1 individual market coverage and does not typically have
2 a network. He noted short-term limited duration plan
3 enrollees, health care sharing ministries, the Amish,
4 or uninsured are not individual market coverage.

5 Mr. Buono addressed uninsured individuals, noting
6 providers are required to provide a Good Faith
7 Estimate upon request or scheduling an item or
8 service. He stated uninsured and self-pay patients
9 must receive a Good Faith Estimate at least 72 hours
10 before services.

11 Mr. Buono also noted that a Good Faith Estimate
12 must be given at least 3 hours ahead of time if a
13 service is scheduled within three days. He noted the
14 act does require that a Good Faith Estimate be
15 provided to a patient's plan in advance of service but
16 stated the federal government and Pennsylvania is
17 taking a non-enforcement approach to this provision
18 due to the technological challenges affecting this
19 provision.

20 Mr. Buono stated providers are encouraged to
21 coordinate with co-providers to present a single Good
22 Faith Estimate, but the Department of Health and Human
23 Services (HHS) is exercising enforcement discretion
24 and flexibility to allow for technical coordination.

25 Mr. Buono provided a summary of providers that

1 may not balance bill. He stated providers and
2 facilities must have a business process to give
3 provider directory and network information to plans
4 anytime there is a material change. He commented that
5 providers and facilities may, by contract, impose on
6 plans the duty to keep the directory current in the
7 event of contract termination. He noted that the
8 provider or facility must reimburse the patient plus
9 interest if a provider or facility bills a patient
10 more than the in-network cost-sharing amount and the
11 patient pays the bill.

12 Mr. Buono addressed continuity of care, where a
13 contract with a plan terminates and the provider or
14 facility is no longer in-network and the patient is a
15 continuing care patient, the provider or facility must
16 accept payment, including cost-sharing calculated on
17 an in-network basis for the duration of the continuity
18 of care.

19 Mr. Buono stated providers with complaints about
20 a plan should contact the Pennsylvania Insurance
21 Department, who has a process to quickly review the
22 complaint. He mentioned HHS is also establishing a
23 complaint process with the acknowledgement of the
24 complaint possibly taking 60 days. He mentioned that
25 providers with complaints about a patient should first

1 make sure the patient understands the act and are
2 encouraged to contact the Pennsylvania Insurance
3 Department.

4 Mr. Buono noted that patients who do understand
5 the act should be handled as before with the
6 understanding in the case of a surprise medical bill
7 that the provider may not collect more than the in-
8 network cost-sharing.

9 Ms. Ykema addressed disclosure requirements,
10 noting a one-page disclosure notice must be available
11 to patients with the requirements and prohibitions
12 regarding balance billing and must identify how a
13 patient may contact the appropriate state and federal
14 agencies if the patient believes the provider or
15 facility has violated the requirements of the law.

16 Ms. Ykema stated the information has to be
17 publicly available from the provider and facility as
18 well as being posted. She mentioned the Pennsylvania
19 Insurance Department has a model notice and
20 information on their website, along with the federal
21 government website at www.cms.gov/nosurprises
22 containing NSA information.

23 Ms. Ykema addressed notice and consent, which
24 allows a provider to balance bill if notice is given
25 and a written consent is received at least 3 days

1 before the service, not later than 1 business day
2 after scheduling, or 3 business days in advance if the
3 service is scheduled 10 days in advance. She noted it
4 may not be used in an emergency situation. She
5 explained that the notice and consent has to be on a
6 separate form, signed, retained for seven years, and a
7 copy given to the patient.

8 Ms. Ykema explained that the notice and consent
9 has to give notice that the provider does not
10 participate in the consumer's health insurance plan,
11 have a Good Faith Estimate amount that the provider
12 may charge for all of the services, explain that there
13 may need to be prior authorization or other approval,
14 and be clear that a person does not have to consent to
15 an out-of-network provider.

16 Ms. Ykema emphasized that a person has to be able
17 to get services from an available in-network provider,
18 but if there is no available in-network provider, then
19 notice and consent may not be used to allow the
20 provider to balance bill.

21 Ms. Ykema addressed payment, where the provider
22 will need to confirm the patient's coverage. She
23 explained that an out-of-network provider who
24 furnished a surprise medical service may collect cost-
25 sharing from the patient at the in-network level and

1 then the provider may bill the patient's plan directly
2 for all remaining charges.

3 Ms. Ykema noted a provider and plan may negotiate
4 if the provider is not satisfied with the amount
5 directly and then through a federally administered
6 Independent Dispute Resolution process. She mentioned
7 there is litigation on the qualifying payment amount
8 and the Independent Dispute Resolution process at the
9 federal level.

10 Ms. Ykema addressed disputes with uninsured and
11 self-pay individuals, where the provider may bill the
12 patient. She stated the patient may access the
13 Patient-Provider Dispute Resolution process if there
14 is a difference in the Good Faith Estimate of at least
15 \$400. She noted that the patient must start the
16 process within 120 days and pay a small administrative
17 fee to start the process but will recoup that if the
18 patient prevails.

19 Ms. Ykema addressed enforcement, again noting
20 that the Pennsylvania Insurance Department had been
21 tasked with being the lead Commonwealth of
22 Pennsylvania agency coordinating enforcement with all
23 of the state agencies. She mentioned that the
24 Pennsylvania Insurance Department has oversight over
25 insurance companies and the other agencies have

1 oversight over providers and facilities. She noted
2 working collaboratively with the other agencies in
3 implementing the new law. She commented that the
4 federal complaint process is also available but will
5 likely take longer, noting that the federal process
6 will probably route those complaints back to the
7 state.

8 Ms. Ykema noted that the state law applies unless
9 it prevents the application of the federal law. She
10 mentioned that the Pennsylvania Insurance Department
11 will use the insurance laws, and the Department of
12 State, Department of Health, and Drug and Alcohol
13 Programs will use both professional conduct and
14 licensure laws. She explained that state agencies
15 that receive a call related to balance billing and the
16 No Surprises Act can go to the Pennsylvania Insurance
17 Department's website for guidance.

18 Ms. Ykema stated complaints are assigned to a
19 consumer services representative after a complaint is
20 received to work with the patient, provider, or health
21 plan and with other state agencies and collaborate
22 with the federal agency if the issue could not be
23 addressed completely.

24 Ms. Ykema noted the Department of Health and
25 Human Services has oversight over the insurance plans,

1 providers, and facilities; Department of Labor has
2 oversight over self-funded plans; and the Office of
3 Personnel Management has oversight over the Federal
4 Employees Health Benefits (FEHB) program. She stated
5 Pennsylvania is prepared to enter into collaborative
6 enforcement agreements with any of those agencies as
7 needed to address concerns.

8 Ms. Ykema encouraged everyone to visit the
9 Pennsylvania Insurance Department at
10 www.insurance.pa.gov/nosurprises for more information.

11 Chairman Paris asked whether there is any kind of
12 punitive action taken or a remedy for providers who
13 violate the No Surprises Act.

14 Ms. Ykema explained that they are anticipating
15 violations early on to be unintentional, but the law
16 does contemplate the ability to impose fines at the
17 federal level. She noted not being sure what the laws
18 are as far as licensure and professional misconduct
19 laws overseen by the Department of State, but there is
20 the possibility of punitive measures with the hope
21 that any violation can be rectified with mediation and
22 education.

23 Dr. Fetchik asked whether skilled nursing
24 facilities or nursing homes and private physicians or
25 independent physician offices are included as being

1 providers or participants.

2 Ms. Ykema stated the law focuses on hospitals and
3 hospital outpatient centers, where the consumer would
4 not be going outside the door to get care elsewhere.
5 She mentioned that the law is not clear on skilled
6 nursing facilities but may be addressed more fully in
7 future regulations.

8 Chairman Paris thanked the Pennsylvania Insurance
9 Department for their presentation.]

10 ***

11 Approval of minutes of the December 15, 2021 meeting

12 CHAIRMAN PARIS:

13 Does anyone have any discussion regarding
14 the minutes from our last meeting?

15 If not, could we get a motion to
16 approve the minutes?

17 DR. FETCHIK:

18 So moved.

19 CHAIRMAN PARIS:

20 Could I get a second?

21 DR. MCCAUGHAN:

22 I'll second the motion.

23 CHAIRMAN PARIS:

24 All in favor? Any oppositions or
25 abstentions?

1 [The motion carried unanimously.]

2 ***

3 [Todd Kriner, Esquire, Board Counsel, noted the Board
4 met in Executive Session to engage in quasi-judicial
5 deliberations on the matters listed on the Report of
6 Board Counsel and Report of Prosecutorial Division.]

7 ***

8 Report of Prosecutors

9 [Christopher K. McNally, Esquire, Board Prosecution
10 Liaison, presented the Consent Agreement for Case No.
11 20-44-005832.

12 Paul J. Jarabeck, Esquire, Senior Board
13 Prosecutor, announced Mr. McNally will be retiring
14 soon from the Pennsylvania Department of State and
15 thanked him for his years of service.

16 Mr. Jarabeck informed the Board that Tim
17 Henderson will be the new prosecution liaison.

18 Chairman Paris also thanked Mr. McNally for his
19 professionalism and congratulated him on his
20 retirement.

21 Mr. McNally stated it was an honor to be assigned
22 to the Board. He thanked Mr. Jarabeck and mentioned
23 that the Board would be in capable hands with Mr.
24 Henderson.]

25 MR. KRINER:

1 Is there a motion to adopt the Consent
2 Agreement at Case No. 20-44-005832, for
3 which there are no recusals?

4 DR. FETCHIK:

5 So moved.

6 CHAIRMAN PARIS:

7 Second?

8 DR. WEBER:

9 Second.

10 CHAIRMAN PARIS:

11 All in favor? Any oppositions or
12 abstentions?

13 [The motion carried unanimously. The Respondent's
14 name in Case No. 20-44-005832 is Mery F. Gooden,
15 D.P.M.]

16 ***

17 Report of Regulatory Counsel - Other

18 [Todd Kriner, Esquire, Board Counsel, addressed Act
19 100 of 2021, noting it provides for virtual meetings
20 and allows each licensing board and commission to use
21 a virtual platform to conduct business when public
22 meetings are held.

23 Acting Commissioner Claggett announced that folks
24 would be able to attend virtually or in person with
25 the hybrid meetings starting on April 1.

1 Mr. Kriner mentioned that the distance education
2 portion of Act 100 basically states that boards shall
3 establish rules and regulations for continuing
4 education that provides for distance education and is
5 already being addressed in 16A-4417. He commented
6 that the only change regarding addressing Act 41 is
7 they now have statutory authority.

8 Mr. Kriner addressed the change to distance
9 education to make it seamless with Act 100. He
10 mentioned the regulation is in the final stages and
11 should be presented as final in the spring. He also
12 noted the addition of the term "asynchronous" because
13 of some of the comments. He asked whether all of the
14 distance continuing education (CE) had to have a
15 knowledge component.

16 Dr. Greenberg explained that the knowledge
17 component is only for the asynchronous or CE that is
18 not livestreamed. He noted that something videotaped
19 and the person does it at their own leisure would be
20 asynchronous and need some sort of knowledge
21 requirement.

22 Dr. Greenberg noted the importance of making it
23 clear that those who attend a livestreaming
24 conference, specifically having to do with the Valley
25 Forge Goldfarb Conference and Region 3 livestreaming

1 conferences, would receive credit similar to the
2 continuing legal education (CLE) conferences, where it
3 is more of an attendance-based requirement course.

4 Mr. Kriner commented that the final regulation
5 specifically says in order to get credit for
6 asynchronous, there must be a knowledge-based
7 assessment component.

8 Dr. Greenberg stated the Board decided there must
9 be a knowledge-based assessment component for
10 asynchronous but not for livestreaming at the last
11 meeting.

12 Chairman Paris asked Mr. Kriner whether the
13 regulation as it stands now is consistent with Act
14 100.

15 Mr. Kriner stated the regulation is consistent
16 with Act 100 and nothing needed to be changed.]

17

18 Report of Regulatory Counsel - Regulatory Counsel
19 [Todd Kriner, Esquire, Board Counsel, informed the
20 Board that 16A-449 regarding acupuncture and 16A-4419
21 regarding licensure by endorsement and qualifications
22 for licensure are still in front of regulatory counsel
23 for review.

24 Mr. Kriner also informed the Board that 16A-4417
25 regarding continuing education should be proposed and

1 finalized in the spring.

2 Dr. Greenberg asked whether the Board decided how
3 many credits can be carried over to the next licensing
4 period and suggested having a discussion at the next
5 Board.

6 Mr. Kriner noted the discussion came up in prior
7 Board minutes but would look at which regulation that
8 is in as well.]

9

10 Report of Board Chair

11 [Michael J. Paris, D.P.M., Chairman, mentioned being a
12 little intimidated in his first term on the Board but
13 learned over the years that members of the Board are
14 all approachable and helpful. He encouraged Board
15 members, both new and old, to reach out to Ms. Wray,
16 Mr. Kriner, or other Board members with any questions
17 because questions are great discussion starters.]

18

19 Report of Acting Commissioner

20 [Arion R. Claggett, Acting Commissioner, Bureau of
21 Professional and Occupational Affairs, addressed Act
22 100 of 2021 and informed the Board that the April
23 meeting will be virtual and in person for Board
24 members and the public.]

25

1 Report of Board Administrator

2 [Nichole Wray, Board Administrator, addressed the
3 upcoming hybrid meeting. She mentioned that the
4 policies are pretty much the same concerning
5 reimbursement and reminded everyone that preapproval
6 is not needed by the Board when traveling to and from
7 Board meetings, but certain travel forms still must be
8 completed.

9 Ms. Wray encouraged Board members to familiarize
10 themselves with policies but would be providing an
11 email containing additional details. She also
12 provided a helpful website at travel.state.pa.us for
13 helpful links and forms. She asked Board members with
14 any upcoming travel to contact her to ensure it is on
15 the agenda for Board approval and submitted for
16 commonwealth approval.

17 Ms. Wray reminded Board members that the deadline
18 for the 2021 Financial Disclosure Statement is May 1
19 but recommended filings be completed by March 31 to
20 allow the Department of Human Resources time for
21 completeness. She asked anyone who did not receive an
22 email with instructions to contact her.

23 Chairman Paris requested more information
24 regarding the setup of the hybrid meetings.

25 Acting Commissioner Claggett informed everyone

1 that anyone in Penn Center will be communicating
2 through a Polycom interface, which will then be
3 transmitted to the folks who are virtual.

4 Acting Commissioner Claggett also informed
5 everyone that masks will be required for state
6 employees but not the public.]

7

8 [Todd Kriner, Esquire, Board Counsel, requested
9 clarification, noting the medical board allows 100
10 hours to be distance education but at least 20 hours
11 would have to be synchronous, and the Board's
12 regulation states that a podiatrist could receive
13 credit for at least 30 asynchronous hours as long as
14 there is a test.

15 Chairman Paris commented that continuing medical
16 education has category 1 and category 2 credits and is
17 not an exact comparison to podiatry.]

18

19 Continuing Education Program Approval

20 [Michael J. Paris, D.P.M., Chairman, referred to two
21 programs presented by the Jefferson Health Northeast,
22 noting Dr. McCaughan already provisionally approved
23 those but still require full Board approval.]

24 CHAIRMAN PARIS:

25 Could we get a motion to approve number 9

1 on our agenda, which is the Jefferson
2 Health Northeast Podiatry Residency, the
3 February 3 education program.

4 DR. GREENBERG:

5 Motion to approve.

6 DR. WEBER:

7 Second.

8 CHAIRMAN PARIS:

9 All in favor? Any oppositions or
10 abstentions?

11 [The motion carried unanimously.]

12 ***

13 CHAIRMAN PARIS:

14 Could we also get a motion to approve
15 number 10, which is the Jefferson Health
16 Northeast Podiatry Grand Rounds scheduled
17 for March 24?

18 DR. WEBER:

19 Motion to approve.

20 DR. GREENBERG:

21 Second.

22 CHAIRMAN PARIS:

23 All in favor? Any oppositions or
24 abstentions?

25 [The motion carried unanimously.]

1 ***

2 For the Board's Information/Discussion - Board Meeting
3 Dates

4 [Michael J. Paris, D.P.M., Chairman, noted 2022 and
5 2023 Board meeting dates.

6 Ms. Wray stated the Board already approved 2023
7 meeting dates but informed the Board that the June 21
8 date was not available. She mentioned that June 28 is
9 tentatively being held for the Podiatry Board but
10 would need a formal approval and vote from the Board.]

11 DR. GREENBERG:

12 Motion to accept.

13 CHAIRMAN PARIS:

14 Second?

15 DR. MCCAUGHAN:

16 I'll second the motion.

17 CHAIRMAN PARIS:

18 All in favor? Any oppositions or
19 abstentions?

20 [The motion carried unanimously.]

21 ***

22 [Robert B. Weber, D.P.M., J.D., M.B.A., Vice Chairman,
23 suggested having the election of officers before the
24 December 21, 2022 meeting because his term and
25 Chairman Paris' term ends in March 2023.

1 Chairman Paris referred to a discussion at a
2 prior meeting, where Commissioner Johnson felt there
3 was no reason not to have the December meeting even if
4 it was just to hold the election virtually. He noted
5 being fine waiting through the year to see how things
6 look.

7 Dr. Weber also commented that there would not be
8 the financial expense of a December meeting, noting it
9 is a few days prior to Christmas.

10 Chairman Paris recommended discussing it at the
11 August meeting to see if the Board wants to put the
12 election on the agenda for the October meeting.]

13

14 For the Board's Information/Discussion - Old
15 Business - New Business

16 [Todd Kriner, Esquire, Board Counsel, referred to the
17 Prescription Drug Monitoring Program (PDMP) vendor
18 transition for the Board's information.

19 Ms. Wray commented that those who have started to
20 make the transition noted it to be pretty seamless on
21 their end but will know more when it is fully
22 implemented. She encouraged everyone to review the
23 information and reach out to her or Mr. Kriner with
24 any issues.

25 Acting Commissioner Claggett read the

1 Prescription Drug Monitoring Program vendor transition
2 email to the Board.

3 Chairman Paris referred to X-ray certification
4 for podiatric assistants. He noted prior Board
5 discussion, where the Board consensus was the language
6 need to be cleaned up in the regulation that already
7 exists or something clarifying how podiatrists can get
8 assistants certified to take X-rays.

9 Chairman Paris stated the Board already has some
10 language in the regulation where maybe an individual
11 or organization could submit a test that would
12 checkoff all the boxes submitted for the Board's
13 approval, but it is murky as to how that test would be
14 administered. He requested Mr. Kriner explain what
15 the Board would need to do to clean that up to spell
16 out how podiatrists could go about this.

17 Mr. Kriner stated the regulation could be cleaned
18 up to add what happens when an entity submits a test
19 for approval from the Board. He noted a formal vote
20 would be needed to authorize Board counsel to draft
21 the annex to amend § 29.82, auxiliary personnel
22 performing radiologic procedures, but asked why the
23 Board wanted to update the regulation.

24 Dr. Weber explained that the average podiatrist
25 is not clear about how often their staff has to

1 recertify and requested appropriate clarification.

2 Chairman Paris commented that the issues are how
3 to get the assistant certified and whether or not the
4 Board requires recertification.

5 Mr. Kriner stated the Board does not have a
6 regulation that says when a radiologist has to be
7 recertified, but must pass the test and upon request
8 provide proof that they passed it. He noted that the
9 certification requiring many CE credits every year
10 comes from one specific agency.

11 Dr. McCaughan addressed Mr. Kriner's question
12 regarding what brought all this about, noting an issue
13 with podiatric assistants having to become certified
14 podiatric medical assistants and take the exam, but in
15 order to be able to do that, their doctor had to be an
16 American Podiatric Medical Association (APMA) member
17 in good standing.

18 Dr. McCaughan noted other podiatrists in
19 Pennsylvania are not APMA members due to cost or
20 whatever reason, and their staff are not able to take
21 X-rays unless they went another route.

22 Mr. Kriner asked whether the Board identified any
23 other independent third-party exams after the December
24 meeting.

25 Chairman Paris asked whether the dental assistant

1 exam or something along those lines could be added to
2 the regulations for staff to pass.

3 Mr. Kriner explained that staff could pass an
4 examination approved by the Board of Medicine, Board
5 of Osteopathic Medicine, or Board of Chiropractic.

6 Chairman Paris asked whether the Board could
7 allow other organizations to present a prepared
8 comprehensive exam to the Board.

9 Mr. Kriner noted the Board would be able to allow
10 other organizations to present exams.

11 Dr. Greenberg commented that the way it now
12 stands, where the podiatrist has to be a member of a
13 state association for the person to be certified
14 should not be in the regulation.

15 Mr. Kriner mentioned that those words are not
16 specifically in the regulation but it is there because
17 a person has to pass the exam in radiology conducted
18 by the American Society of Podiatric Medical
19 Assistants.

20 Chairman Paris stated the three pathways within
21 the regulation are ASPMA, another organization, and
22 the person passing an examination approved and
23 administered by the Board is the one that needs
24 revised.

25 Mr. Kriner commented that the regulation does not

1 permit the Board to administer the exam and needs to
2 be amended to address the Board's concerns.]

3 DR. GREENBERG:

4 I will make the motion to ask counsel
5 Kriner to address the reg on that.

6 DR. WEBER:

7 I'll second.

8 CHAIRMAN PARIS:

9 All in favor? Any oppositions or
10 abstentions?

11 [The motion carried unanimously.]

12 ***

13 Miscellaneous

14 [Robert B. Weber, D.P.M., J.D., M.B.A., Vice Chairman,
15 stated a podiatrist is not listed as a physician in
16 Pennsylvania with the exception of Medicare, Veterans
17 Affairs (VA), and other insurance programs. He
18 mentioned a question from a VA podiatrist asking
19 whether or not podiatrists are allowed to have
20 physician assistants (PAs) under their supervision and
21 asked for an opinion from the state.

22 Mr. Kriner noted that Board counsel is not
23 permitted to provide an advisory opinion.

24 Ms. Wray commented that some of that may come
25 into play under the boards in which a physician

1 assistant or nurse practitioner is licensed because
2 there may be something within their regulations or act
3 that dictate the definitions. She suggested looking
4 at those boards as to whether or not podiatrists would
5 fall within that definition.

6 Ms. Wray informed the Board that the laws and
7 regulations are listed for each board on the
8 Department of State's website. She mentioned that
9 there is a new act specifically for the modernization
10 of physician assistants that changed the dynamics of
11 physician assistant supervision in general. She noted
12 the laws and regulations may not be fully up-to-date
13 on the website because those regulations have to be
14 updated but offered to forward everyone the act.

15 Dr. Greenberg suggested Board counsel ask the
16 physician assistant's counsel whether their licensees
17 can work under a podiatrist.

18 Dr. Weber addressed an issue with insurance
19 companies, where they have the ultimate decision and
20 right to say a podiatrist under their rules is not a
21 physician.

22 Chairman Paris suggested exploring the legality
23 of a physician assistant working under a podiatrist
24 and whether or not reimbursement would be provided.
25 He requested more information regarding who oversees

1 physician assistants and whether they are under the
2 Board of Medicine.

3 Ms. Wray noted not being aware of podiatrists
4 being able to supervise, or at least doesn't know of a
5 process, although she could be mistaken. She
6 explained that physician assistants could be licensed
7 under the Osteopathic Board of Medicine or Board of
8 Medicine depending on the where the supervising
9 physician is licensed. For example, a physician
10 assistant would require an osteopathic physician
11 assistant license if supervised by a doctor of
12 osteopathic medicine (DO), but would require a medical
13 physician assistant license if supervised by a medical
14 doctor (MD). She noted not being unaware of licensure
15 under a podiatrist.

16 Ms. Wray also noted that nurse practitioners are
17 governed by the State Board of Nursing. She noted that
18 there are written agreements or supervisory or
19 collaborative agreements, and depending on whether
20 they are physician assistants or nurse practitioner,
21 the term may be slightly different. She explained
22 that medicine and osteopathic medicine are just
23 required to file that agreement with the state, but
24 there is still a component of who can and cannot file
25 those and who can and cannot be considered the

1 supervising physician.

2 Ms. Wray stated the new act actually brought the
3 medical and osteopathic sides for the physician
4 assistants up to speed with the nurse practitioners
5 and is just considered a filing with the signature of
6 a physician.

7 Dr. Greenberg addressed legislation regarding the
8 definition of podiatry as a physician, where a
9 bipartisan agreement could submit to legislation an
10 addition to the definition of podiatry to include them
11 as physicians on the basis of the health and safety of
12 Pennsylvanians. He asked whether the Board could
13 propose something to a bipartisan group of senators to
14 propose it to legislation.

15 Mr. Kriner offered to take a look at this again
16 to see what needs to be done.

17 Acting Commissioner Claggett noted the need for
18 further research but would follow up with the Board
19 regarding all of their questions.]

20 ***

21 [Paul J. Jarabeck, Esquire, Senior Board Prosecutor,
22 noted there was a Probable Cause Screening Committee
23 Meeting yesterday with one action taken.]

24 ***

25 Adjournment

1 CHAIRMAN PARIS:

2 Could we get a motion to adjourn this
3 meeting?

4 DR. GREENBERG:

5 Motion to adjourn.

6 CHAIRMAN PARIS:

7 Second?

8 DR. WEBER:

9 I second.

10 CHAIRMAN PARIS:

11 All in favor? Any oppositions or
12 abstentions? The motion passed, and the
13 meeting is adjourned.

14 [The motion carried unanimously.]

15 ***

16 [There being no further business, the State Board of
17 Podiatry Meeting adjourned at 12:24 p.m.]

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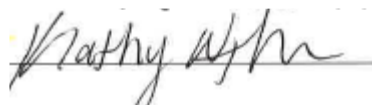
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CERTIFICATE

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



Kathryn Witherow,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF PODIATRY
REFERENCE INDEX

February 16, 2022

	TIME	AGENDA
1		
2		
3		
4		
5		
6		
7		
8		
9	9:30	Executive Session
10	10:30	Return to Open Session
11		
12	10:31	Official Call to Order
13		
14	10:31	Roll Call/Introduction of Attendees
15		
16	10:33	Appointment - Pennsylvania Insurance
17		Department Presentation
18		
19	11:01	Approval of Minutes
20		
21	11:03	Report of Prosecutors
22		
23	11:13	Report of Regulatory Counsel
24		
25	11:27	Report of Board Chair
26		
27	11:29	Report of Commissioner
28		
29	11:32	Continuing Education Program Approval
30		
31	11:35	For the Board's Information/Discussion
32		
33	12:01	Miscellaneous
34		
35	12:24	Adjournment
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