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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

TIME: 9:31 A.M.

BOARD ROOM B

One Penn Center
2601 North Third Street
Harrisburg, PA 17110

Wednesday, June 19, 2019

State Board of Podiatry
June 19, 2019

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BOARD MEMBERS:

Robert B. Weber, D.P.M., Chairman
Michael J. Paris, D.P.M., Vice Chairman
Eric B. Greenberg, D.P.M., Secretary - Absent
K. Kalonji Johnson, Acting Commissioner, Bureau of
Professional and Occupational Affairs
Melissa Haluszczak, Public Member

BUREAU PERSONNEL:

Kenneth J. Suter, Esquire, Board Counsel
Tara Smith, Esquire, Board Prosecutor
Dean Picarella, Esquire, Counsel Supervisor
Cynthia Montgomery, Esquire, Regulatory Counsel
Aaron Hollinger, Board Administrator

ALSO PRESENT:

Charles Hartwell, Esquire, Dethlefs-Pykosh Law Group

1 ***

2 State Board of Podiatry

3 June 19, 2019

4 ***

5 The regularly scheduled meeting of the State
6 Board of Podiatry was held on Wednesday, June 19,
7 2019. Robert B. Weber, D.P.M., Chairman, called the
8 meeting to order at 9:31 a.m.

9 K. Kalonji Johnson, Acting Commissioner, Bureau
10 of Professional and Occupational Affairs, was not
11 present at the commencement of the meeting.

12 ***

13 Meeting Call to Order

14 CHAIRMAN WEBER:

15 Could I have a motion to call to order,
16 please?

17 DR. PARIS:

18 I'll make a motion.

19 CHAIRMAN WEBER:

20 Second?

21 MS. HALUSZCZAK:

22 Second.

23 CHAIRMAN WEBER:

24 All in favor?

25 [The motion carried unanimously.]

1 ***

2 Approval of Minutes of April 17, 2019

3 CHAIRMAN WEBER:

4 In regard to our last meeting's minutes,
5 any questions about that prior to
6 approval?

7 If not, a motion for approval.

8 MS. HALUSZCZAK:

9 Motion.

10 DR. PARIS:

11 Second.

12 CHAIRMAN WEBER:

13 All in favor?

14 [The motion carried unanimously.]

15 ***

16 Report of Prosecutors

17 [Tara Smith, Esquire, Board Prosecutor, presented a
18 Consent Agreement for File No. 15-44-14807.]

19 ***

20 Appointment - Cynthia Montgomery, Esquire, Department
21 of State Regulatory Process

22 [Cynthia Montgomery, Esquire, presented before the
23 Board for discussion of the basic steps involved in
24 the regulation process, including the drafting of the
25 regulation, prepublication review, publication of the

1 proposed regulation, public comment, legislative
2 committee and independent regulatory review commission
3 review, revisions, final rulemaking, post publication
4 review, legislative committee and independent
5 regulatory review commission again, and publication of
6 the final regulation.

7 She reviewed the sources of regulations,
8 including the courts, legislature, the public, BPOA,
9 prosecution division, as well as Board members
10 themselves.

11 Ms. Montgomery explained that when Counsel
12 drafts an annex, an exposure draft is sent out for
13 informal comments and sent back to the Board for
14 consideration of revisions. Counsel would then draft
15 a preamble, which contains statutory authority for the
16 regulation, a description of the proposed regulation,
17 analysis of fiscal impact and paperwork requirements,
18 sunset data, if any, and information regarding how to
19 submit formal comments, suggestions or objections
20 regarding the proposed regulation.

21 She noted that a regulatory analysis form is also
22 completed by Counsel, which is a requirement by the
23 Independent Regulatory Review Commission (IRRC) under
24 the Regulatory Review Act. Review by the Office of
25 Chief Counsel, the Governor's Office of Policy and

1 Planning, the Governor's Budget Office are the next
2 steps in the process.

3 Ms. Montgomery explained that after review by all
4 those levels, the proposed rulemaking is published and
5 delivered to the House and Senate Committees for
6 review which for this Board is the House Professional
7 Licensure Committee and the Senate Consumer Protection
8 and Professional Licensure Committee. She indicated
9 that after public comment, IRRC also will comment on
10 the proposed rulemaking, and Ms. Montgomery discussed
11 the criteria that IRRC must consider.

12 Ms. Montgomery further explained that after
13 review of all of the comments received, the Board
14 prepares a final regulation with any changes, but that
15 substantial changes would result in republication of
16 the proposed regulation and the process would start
17 over again.

18 She discussed the following three options if IRRC
19 disapproves a final regulation, which would include
20 withdraw of the regulation, submitting the regulation
21 with revisions within 40 days of the disapproval or
22 submitting the regulation unchanged accompanied by a
23 report. Ms. Montgomery noted that after concerns are
24 addressed by IRRC to their satisfaction, the
25 regulation is approved and sent to the Attorney

1 General for approval, delivered to the Legislative
2 Reference Bureau for final publication and ultimately
3 for codification in the Pennsylvania Code.

4 It was noted that under Section 204 of the
5 Commonwealth Documents Law, an agency may omit doing a
6 notice of proposed rulemaking but only under limited
7 circumstances, and discussed what those circumstances
8 included.

9 Ms. Montgomery explained that sine die
10 adjournment occurs every two years during which the
11 legislative session ends and results in waiting for a
12 specified time period in the new legislative session
13 to deliver to the standing committee of the House and
14 the Senate.]

15 ***

16 Report of Board Counsel

17 [Kenneth Suter, Esquire, Board Counsel, commented that
18 he did not comprehend the time frame and amount of
19 work involved for each of the steps in the regulatory
20 process.

21 Mr. Suter was in the process of responding to
22 comments that were received from the Office of General
23 Counsel regarding the Board's proposed CE reg for
24 online continuing education.

25 Ms. Montgomery noted the Governor's Policy Office

1 and Budget Office has already approved the regulation,
2 that once the Office of Attorney General approves the
3 regulation it would be ready for publication as
4 proposed.]

5

6 [The Board recessed from 10:22 a.m. until 10:25 a.m.]

7

8 Report of Board Counsel (Continued.)

9 [Kenneth Suter, Esquire, Board Counsel, read into the
10 record the Ten (Additional) Commandments for
11 Board/Commission Members authored by Judith Pachter
12 Schulder, Esquire.]

13

14 Report of Board Chair

15 [Robert B. Weber, D.P.M., Board Chairman, noted he
16 would be proceeding with contacting the prior
17 commissioner regarding the recognition of podiatrists
18 as physicians.]

19

20 Report of Commissioner - No Report

21

22 Report of Board Administrator

23 [Aaron Hollinger, Board Administrator, noted less than
24 15 applications are left to process before the July 1,
25 2019 start date.]

1 ***

2 Continuing Education Program Approval

3 [Aaron Hollinger, Board Administrator, noted there are
4 none for approval this month.]

5 ***

6 For the Board's Information/Discussion

7 Board Meeting Dates

8 [Robert P. Weber, D.P.M., Board Chairman, commented
9 the meeting dates had already been reviewed and
10 approved but were included on the agenda just as an
11 FYI.]

12 ***

13 Old Business/New Business

14 Continuing Medical Education Requirements

15 [Robert P. Weber, D.P.M., Board Chairman, noted these
16 requirements are regarding mandatory Child Abuse and
17 the opioid issue.

18 Attorney Suter noted there is information on the
19 website regarding the Child Abuse education.]

20 ***

21 [K. Kalonji Johnson, Acting Commissioner of
22 Professional and Occupational Affairs, entered the
23 meeting at 10:34 a.m.]

24 ***

25 Continuing Medical Education Requirements (Cont.)

1 [Mr. Suter inquired of Acting Commissioner Johnson
2 whether the Boards that require the child abuse
3 screening could notify licensees that there are
4 programs available that meet the requirements at no
5 cost. He stated that the programs on the website meet
6 the criteria but do not identify which ones charge a
7 fee and which are free.

8 Acting Commissioner Johnson responded that the
9 Board has to be careful not to endorse certain
10 providers, but stated that changing the general
11 language to state that some of the programs may be
12 offered at low to no cost would be appropriate.

13 Mr. Suter stated that information regarding CE
14 requirements are posted on the website.]

15 ***

16 [Mr. Suter introduced Dean Picarella, Esquire, who
17 recently came over to the Counsel Division from the
18 Prosecution Office. Mr. Picarella will sit in
19 Executive Session as a Counsel supervisor.]

20 ***

21 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
22 10:42 a.m. the Board entered into Executive Session
23 with Kenneth J. Suter, Esquire, Board Counsel, for the
24 purpose of conducting quasi-judicial deliberations.
25 The Board returned to open session at 11:59 a.m.]

1 ***

2 MOTIONS

3 MR. SUTER:

4 The Board was in Executive Session and
5 the purpose of the Executive Session was
6 to discuss Items 2 and 3 on the agenda.
7 Item No. 2 is File No. 15-44-14807.

8 As a result of the Executive
9 Session, I understand the Board will
10 entertain a motion to approve the
11 Consent Agreement in this matter.

12 MS. HALUSZCZAK:

13 I make a motion to approve the Consent
14 Agreement and Order.

15 ACTING COMMISSIONER JOHNSON:

16 Second.

17 CHAIRMAN WEBER:

18 All in favor?

19 [The motion carried unanimously. The Respondent's
20 name is Richard Lee Spinner, D.P.M.]

21 ***

22 MR. SUTER:

23 The other matter that was discussed in
24 Executive Session was Item No. 3 on the
25 agenda, Sharon L. Pletcher, D.P.M., File

1 No. 19-44-004587.

2 I would note for the record that
3 Board member Melissa Haluszczyk was
4 recused from this matter and did not
5 participate and was not present in the
6 room during Executive Session in this
7 matter.

8 I understand that the Board will
9 entertain a motion in this case to direct
10 Board Counsel to draft an Order and issue
11 an Order that delegates this matter to a
12 Hearing Examiner for a Proposed
13 Adjudication and Order.

14 DR. PARIS:

15 I'll make that motion.

16 ACTING COMMISSIONER JOHNSON:

17 I second the motion.

18 CHAIRMAN WEBER:

19 All in favor?

20 [The motion carried. Ms. Haluszczyk recused from
21 deliberations and voting on the motion.]

22 ***

23 [Robert B. Weber, D.P.M., Board Chairman, stated he
24 would follow up as much as possible to have
25 podiatrists recognized in the state and would work

1 through the necessary channels to obtain some type of
2 proclamation through the Governor's Office listing
3 podiatrists as physicians.

4 Acting Commissioner Johnson commented that a
5 Governor's proclamation would not have the same effect
6 as a Senate or House resolution. Chairman Weber
7 suggested contacting Senator Mensch regarding the
8 matter.]

9 ***

10 [Mr. Suter noted for the record that all votes were
11 unanimous today of those participating.]

12 ***

13 Adjournment

14 MS. HALUSZCZAK:

15 Can I make a motion to close?

16 CHAIRMAN WEBER:

17 Please.

18 MS. HALUSZCZAK:

19 I make a motion to close.

20 DR. PARIS:

21 Second.

22 CHAIRMAN WEBER:

23 All in favor?

24 [The motion carried unanimously.]

25 ***

1 [There being no further business, the State Board of
2 Podiatry Meeting adjourned at 12:08 p.m.]

3 ***

4

5

6 CERTIFICATE

7

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

13

14

15

Bridget Hockenbroch

16

Bridget Hockenbroch,

17

Minute Clerk

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Sargent's Court Reporting

19

Service, Inc.

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STATE BOARD OF PODIATRY
REFERENCE INDEX

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TIME	AGENDA
9:31	Official Call to Order
9:32	Approval of Minutes
9:32	Report of Prosecutors
9:49	Appointment - Cynthia Montgomery
10:15	Report of Board Counsel
10:22	Recess
10:25	Return to Open Session
10:25	Report of Board Counsel (Continued)
10:29	Report of Board Chair
10:31	Report of Board Administrator
10:32	For the Board's Information/Discussion
10:42	Executive Session
11:59	Return to Open Session
11:59	Motions
12:08	Adjournment