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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: 10:32 A.M.

Wednesday, December 16, 2020

State Board of Podiatry
December 16, 2020

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BOARD MEMBERS:

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

BUREAU PERSONNEL:

Kenneth J. Suter, Esquire, Board Counsel
Paul J. Jarabeck, Esquire, Board Prosecutor, on behalf
of Christopher K. McNally
Aaron Hollinger, Board Administrator
Marc Farrell, Deputy Policy Director, Department of
State
Theodore Stauffer, Executive Secretary, Bureau of
Professional and Occupational Affairs

ALSO PRESENT:

Michael Davis, Executive Director, Pennsylvania
Podiatric Medical Association

1 ***

2 State Board of Podiatry

3 December 16, 2020

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
6 10:00 a.m. the Board entered into Executive Session
7 with Kenneth J. Suter, Esquire, Board Counsel, for the
8 purpose of discussing personnel issues. The Board
9 returned to open session at 10:30 a.m.]

10 ***

11 The regularly scheduled meeting of the State
12 Board of Podiatry was held on Wednesday, December 16,
13 2020. Robert B. Weber, D.P.M., Chairman, called the
14 meeting to order at 10:32 a.m.

15 ***

16 Approval of minutes of the October 21, 2020 meeting

17 CHAIRMAN WEBER:

18 I would like to have a motion for
19 approval of the minutes from October 21,
20 2020.

21 DR. GREENBERG:

22 I motion to approve the minutes.

23 CHAIRMAN WEBER:

24 Do we have a second on that?

25 DR. PARIS:

1 I'll second.

2 CHAIRMAN WEBER:

3 All in favor? Any nays?

4 [The motion carried unanimously.]

5 ***

6 Report of Prosecutorial Division

7 [Paul J. Jarabeck, Esquire, Board Prosecutor, on
8 behalf of Christopher K. McNally, had nothing to
9 report.]

10 ***

11 Report of Board Counsel

12 [Kenneth J. Suter, Esquire, Board Counsel, noted the
13 Board was in Executive Session prior to the beginning
14 of the public session to discuss some personnel
15 issues. He also noted that none of the items on the
16 agenda were discussed during Executive Session.]

17 ***

18 Report of Regulatory Counsel

19 [Kenneth J. Suter, Esquire, Board Counsel, addressed
20 the proposed rulemaking for 16A-4417 regarding
21 continuing education. He referred to correspondence
22 from Michael Davis at the Pennsylvania Podiatric
23 Medical Association (PPMA) regarding amendments to the
24 proposed rulemaking. He noted live sessions do not
25 provide a course assessment from the perspective of a

1 knowledge check. He referred to the regulation, where
2 a knowledge assessment must be completed before
3 obtaining credit for the course.

4 Mr. Suter explained that he and the Board did not
5 realize that the impact would be an individual could
6 not obtain credit, because a knowledge assessment is
7 required to get credit for the course if it was a live
8 session when the Board was addressing the regulation.

9 Mr. Suter stated it was a policy decision of the
10 Board, but he felt obligated to bring it back to the
11 Board because of being uncertain of the intent to not
12 provide credit if there was not a knowledge
13 assessment.

14 Dr. Paris commented that it was not the Board's
15 intention to disallow those credits through a streamed
16 event and questioned whether that should be defined
17 within the regulation or just allow organizations to
18 ask for a waiver to get around that requirement.

19 Mr. Suter stated the definition may need to be
20 changed if that was the direction of the Board and
21 recognized Mr. Davis for bringing it to his attention.

22 Michael Davis, Executive Director, Pennsylvania
23 Podiatric Medical Association, recommended inserting
24 instructional media in the current regulation, and the
25 other would stand on its own. He commented that if it

1 was live it would be the equivalent of a face-to-face
2 and how it was treated under Section 720 of the
3 Council on Podiatric Medical Education (CPME)
4 standards.

5 Dr. Greenberg mentioned the minutes of the
6 meeting will confirm the Board views that streaming is
7 equivalent to face-to-face and is an approved program
8 from CPME and will be accredited by the Board. He
9 noted putting that more specifically in the regulation
10 or not was fine with the Board.

11 Mr. Suter referred to Act 116 of 2020 regarding
12 carryover of continuing education. He provided
13 information regarding other boards, where the Board of
14 Psychology already has a regulation in place requiring
15 30 credits of continuing education every biennial
16 period with the allowance of 10 carryover credits but
17 prohibiting any ethics credits.

18 Mr. Suter stated the Board of Osteopathic
19 Medicine was reviewing carryover and thinking about
20 20% for their licensees, because they have so many
21 different types of license classes under the Board.
22 He requested direction from the Board as to whether
23 carryover was something the Board wanted to pursue.

24 Commissioner Johnson reported interest across the
25 majority of the boards. He noted legislation has

1 built in a limit as to how far back the carryover can
2 proceed, which is one biennial period, and gives
3 boards the discretion to determine the scope of
4 carryover.

5 Mr. Suter noted giving advice to the Board of
6 Osteopathic Medicine that carryover could not be
7 implemented until there was a regulatory scheme and
8 then found out that it could be implemented ahead of
9 the regulation as long as there are clear-defined
10 procedures and guidelines.

11 Commissioner Johnson stated other boards have had
12 issues with CEs causing individuals not to be able to
13 renew their licenses in a timely matter. He noted
14 this would alleviate the problem immediately with
15 expiration, petitioning the Board for a hardship, and
16 spending time and money on the process.

17 Dr. Greenberg agreed that 20% carryover was a
18 good starting point for discussion and would take care
19 of the problem Commissioner Johnson mentioned about
20 people jumping through hoops to meet their
21 requirement.

22 Dr. Paris expressed his concern with this being
23 an administrative burden as far as following what
24 types of credits people are carrying over and
25 recommended having an across-the-board 20% to relieve

1 that burden.

2 Mr. Hollinger provided a summary of the audit
3 process. He also addressed the audit process that
4 allows carryover, emphasizing the importance of
5 licensees keeping their certificates for a minimum of
6 4 years or 2 renewal cycles. He noted that much will
7 depend on the board and the specifics as to the
8 percentage and types of credits being carried over,
9 where two renewal cycles at a time may need audited.

10 Chairman Weber mentioned having a program similar
11 to CE Broker, where every course and credit would be
12 fully listed. He noted it to be a lot easier to scan
13 for physicians and Mr. Hollinger to scan on a biennial
14 basis to know which courses were taken and which ones
15 could be carried over for the next biennial cycle.

16 Mr. Suter mentioned being Board counsel to the
17 Board of Psychology, noting they had the experience of
18 having carryover for a number of years. He stated
19 carryover from one biennial period to the next causes
20 a domino effect that may involve going back many
21 biennial renewals. He commented that it could be
22 time-consuming from an administrative perspective.

23 Chairman Weber offered to send to CE Broker his
24 credits for the past biennium to keep track of for the
25 Board's review.

1 [Robert B. Weber, D.P.M., Chairman, hoped everybody
2 and their families stay healthy and the pandemic ends
3 globally. He mentioned that it is realistic today
4 with what science is achieving with the vaccine that
5 they are going to find cures for so many other things.

6 Chairman Weber also wished everybody a happy and
7 healthy holiday.]

8

9 Report of Commissioner - No report

10 [K. Kalonji Johnson, Commissioner, Bureau of
11 Professional and Occupational Affairs, offered
12 continued prayers to health care practitioners, that
13 everyone on the Board and everyone represented by the
14 stakeholders and the audience continue to stay healthy
15 and safe as they continue to provide essential
16 services to the citizens of the commonwealth.

17 Commissioner Johnson also wished everyone a safe,
18 healthy, happy, and restful holiday.

19 Commissioner Johnson conveyed his gratitude to
20 the Board for their persistence and resilience in
21 dealing with all of the changes from the pandemic. He
22 noted being proud of bringing all of the good work the
23 Board has done to a much wider audience. He conveyed
24 gratitude to the Board administrator, Board counsel,
25 Mr. Stauffer, the prosecutorial division,

1 stakeholders, and colleagues in the legislature.

2 Commissioner Johnson encouraged public members to
3 stay active and provide comments and feedback.]

4 ***

5 Report of Board Administrator

6 [Aaron Hollinger, Board Administrator, addressed
7 biennial renewals, noting licenses for the Board
8 expire December 31 with no grace period. He
9 emphasized the importance of licensees completing
10 renewal on time and all other CE requirements to
11 ensure there was no lapse in their license. He also
12 reported no widespread issues or technical problems
13 with online renewal this year.

14 Commissioner Johnson noted that 70% of licensees
15 have renewed but implored stakeholder organizations to
16 get the message out. He mentioned trying to do a much
17 better job of pushing renewal at the beginning of
18 biennial period in the future.]

19 ***

20 Continuing Education Program Approval - No Report

21 ***

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

24 [Aaron Hollinger, Board Administrator, referred to
25 upcoming 2021 Board meeting dates, noting February 17

1 is the next scheduled Board meeting date.]

2 ***

3 For the Board's Information/Discussion - Old
4 Business/New Business

5 [Aaron Hollinger, Board Administrator, noted the
6 proposed 2022 Board meeting dates for the Board's
7 approval.]

8 ***

9 DR. PARIS:

10 I'll make the motion to approve the 2022
11 schedule.

12 CHAIRMAN WEBER:

13 Could I kindly have a second?

14 DR. GREENBERG:

15 I'll second it.

16 CHAIRMAN WEBER:

17 All in favor? Any nays?

18 [The motion carried unanimously.]

19 ***

20 For the Board's Information/Discussion - Old
21 Business/New Business - Recognition of Podiatrists
22 as Physicians

23 [K. Kalonji Johnson, Commissioner, Bureau of
24 Professional and Occupational Affairs, addressed
25 discussion at the prior meeting, where the policy

1 deputy director provided details as to the status of
2 the governor's statement of recognition of podiatrists
3 and their work throughout the COVID pandemic, but
4 offered no further movement.

5 Chairman Weber questioned whether it would be
6 possible to check with the governor's office to see if
7 the proclamation could be sent to the leaders of both
8 parties in both houses to see if they would move on
9 this.

10 Dr. Greenberg referred to the letter drafted by
11 the Board for recognition of podiatrists as physicians
12 for discussion today. He noted substance in the
13 letter to support the change of the definition and
14 factual talking points to be presented to Commissioner
15 Johnson. He mentioned the importance of changing the
16 definition, where podiatry services would no longer be
17 optional, be part of the legislation, and be made
18 permanent in the program.

19 Mr. Hollinger mentioned being involved in
20 conversations with Dr. Greenberg and Mr. Suter
21 regarding the letter. He noted the letter was drafted
22 in October, but due to information being added to the
23 letter, it needed to be brought back to the Board for
24 review. He referred to item 7 on the agenda, which is
25 the language Dr. Greenberg has proposed to send to

1 Commissioner Johnson.

2 Dr. Greenberg commented that the letter is to
3 give Commissioner Johnson the main meat of the
4 argument as to why the definitional change is directly
5 related to the health and safety of the residents of
6 Pennsylvania.]

7 ***

8 MR. SUTER:

9 What we would need, if everybody is in
10 agreement with the letter as worded, is a
11 motion to approve it, meaning that Aaron
12 would put it on Board stationery, your
13 Board chair would sign it. We would
14 actually stamp a signature because of the
15 virtual nature of things today. We would
16 send it on behalf of the Board, so I
17 wanted the Board to actually approve the
18 language.

19 DR. PARIS:

20 I'll make a motion to approve this letter
21 to be sent to the commissioner.

22 DR. MCCAUGHAN:

23 I second the motion.

24 CHAIRMAN WEBER:

25 All in favor? Any nays?

1 [The motion carried unanimously.]

2

3 For the Board's Information/Discussion - Old
4 Business/New Business - APMLE Part II Clinical
5 Skills Patient Encounter Examination

6 [Kenneth J. Suter, Esquire, Board Counsel, addressed
7 the American Podiatric Medical Licensing Examination
8 (APMLE) Part II Clinical Skills Patient Encounter. He
9 noted one inquiry regarding a podiatric residency
10 program in Pennsylvania questioning the Board's
11 position. He noted meeting with Mr. Hollinger, Mr.
12 Davis, and the head of the residency program.

13 Mr. Suter thought the issue was resolved but
14 wanted to run through this again for a formal Board
15 vote. He referred to the memorandum Mr. Davis drafted
16 and noted § 29.11, where the Board could grant a
17 license to anybody who has met the requirements of the
18 act and has satisfactorily passed the clinical
19 examination on the subject of podiatry. He noted the
20 Board also adopted as a regulation the nationally
21 recognized examination as their examination to the
22 Board.

23 Mr. Suter noted APMLE established a Clinical
24 Skills Patient Encounter Examination. He stated in
25 2015 APMLE added a Clinical Skills Assessment with

1 three parts to the exam. He explained that Part II
2 has a written part and clinical part in terms of
3 clinical skills and is conducted so somebody could
4 perform their residency, where they are supervised.
5 He stated there was no clinical component to Part II
6 of the exam prior to 2015.

7 Mr. Suter stated, in November of this year,
8 Clinical Skills Patient Encounter (CSPE), the clinical
9 component of Part II was suspended, so somebody could
10 take the written part of Part II and then go on to
11 take Part III, which allowed them to take Part III
12 without completing the clinical component of Part II.

13 Mr. Suter explained that Part III of the exam is
14 taken before an individual can practice unsupervised
15 but is confusing in Pennsylvania, because unlike some
16 other states, Pennsylvania does not have a training
17 license or residency license. He mentioned that
18 individuals get licensed as a resident when they start
19 to do the supervised practice, so an individual could
20 take the written portion, not the clinical portion of
21 Part II and then go on to take Part III of the
22 clinical component and be an unsupervised podiatrist.

23 Mr. Suter did not see why an individual should
24 have to go back and take Part II clinical assessment
25 when they have already taken Part III, which is the

1 unsupervised capacity, noting that it makes no sense
2 to make an individual take the clinical assessment for
3 supervised practice when they are already approved for
4 unsupervised practice.

5 Mr. Suter wanted to review this matter again,
6 because the issue keeps coming up with the residency
7 program and other individuals. He wanted to make sure
8 that the Board was aware of all of the elements of
9 this and wanted to have a formal vote.]

10 ***

11 DR. GREENBERG:

12 I am making a motion to approve it.

13 CHAIRMAN WEBER:

14 Ask for a second, please.

15 DR. GREENBERG:

16 May I have a second?

17 DR. PARIS:

18 I'll second.

19 CHAIRMAN WEBER:

20 All in favor? Any nays?

21 [The motion carried unanimously. The motion is to
22 suspend Part II during COVID as long as it is waived
23 by the national organizations.]

24 ***

25 Miscellaneous

1 [Michael J. Paris, D.P.M., Vice Chairman, requested
2 more information regarding the regulation previously
3 voted on by the Board allowing 50 in-person or
4 distance credits.

5 Mr. Suter explained that the Board already
6 provided a proposed regulation, and the next step
7 would be a final-form regulation. He stated the
8 regulation has to go through the whole process again
9 with the Independent Regulatory Review Commission
10 (IRRC), and stakeholders and interested parties can
11 comment on the regulation.

12 Mr. Suter noted being more than halfway through
13 the process and mentioned the only obstacle would be
14 if there are objections from stakeholders and
15 interested parties.

16 Chairman Weber requested information concerning
17 the availability and amount of online credits for next
18 year.

19 Marc Farrell, Deputy Policy Director, Department
20 of State, informed the Board that a waiver was
21 currently being developed to extend that beyond the
22 current renewal period for podiatry and a number of
23 other boards.

24 Chairman Weber asked Mr. Farrell to meet with
25 Commissioner Johnson concerning changing the wording

1 to recognize podiatrists as physicians in the
2 Commonwealth of Pennsylvania. He believed it to be a
3 form of unintentional discrimination because they are
4 physicians and want to be on a regular track like
5 every other health care provider. He requested their
6 assistance to move this forward and to expedite it
7 with great speed. He expressed his appreciation from
8 the whole podiatric profession for their efforts.

9 Dr. Greenberg encouraged Mr. Farrell to read the
10 letter the Board drafted for compelling reasons and
11 information provided to change the definition.

12 Mr. Davis noted receiving miscellaneous questions
13 concerning the ability of podiatrists to give
14 injections of the COVID-19 vaccines and questioned
15 whether the Board should take action.

16 Mr. Suter mentioned a review going on right now
17 with the Department of Health issuing certificates for
18 the ability to provide vaccines and testing for other
19 health care professionals, including podiatrists. He
20 stated the Board cannot issue an advisory opinion as
21 to what is and is not in the scope of practice but
22 believed the Governor's Office and policy people were
23 aware that there was confusion.

24 Commissioner Johnson noted receiving emails
25 across all of the health care boards regarding

1 prioritization of vaccinations and directed those
2 inquiries to the Department of Health. He encouraged
3 all practitioners to review the interim vaccination
4 plan currently on the Department of Health's website.

5 Dr. Paris commented that the podiatric community
6 of Pennsylvania has been questioning what the Board
7 has been up to over the last year or so with the push
8 for the recognition of podiatrists as physicians and
9 the push to enable the 50 credits through distance
10 learning. He suggested emailing licensees a summary
11 of what the Board has done over the last year.

12 Commissioner Johnson recommended writing a
13 newsletter.

14 Mr. Sutter suggested Mr. Hollinger gather the
15 last few newsletters from the Board and from other
16 health-related boards that have issued up-to-date
17 newsletters to be used as an example.

18 Dr. McCaughan offered to work with Dr. Paris to
19 create the newsletter.

20 Mr. Davis offered to place the newsletter on
21 PPMA's email newsletter.]

22 ***

23 Appointments

24 [Robert B. Weber, D.P.M., Chairman, questioned whether
25 there were any new developments regarding filling

1 Board positions.

2 Dr. Greenberg noted a nurse for public membership
3 has gone through her representatives and a physician
4 from Scranton has submitted his request to his
5 Senator.

6 Commissioner Johnson has not seen anything go
7 through the governor's office. He noted that now
8 would be the time for those interested to reach out to
9 their respective district offices and provide their
10 paperwork. He noted Director Latanishen from the
11 Office of Intergovernmental Affairs has been excellent
12 with shepherding individuals through the process.]

13 ***

14 Adjournment

15 CHAIRMAN WEBER:

16 Anybody want to make a motion for
17 adjournment?

18 COMMISSIONER JOHNSON:

19 So moved.

20 MS HALUSZCZAK:

21 I second the motion.

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 12:21 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.

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16 Morgan McKendrick,

17 Minute Clerk

18 Sargent's Court Reporting
19 Service, Inc.

STATE BOARD OF PODIATRY
REFERENCE INDEX

December 16, 2020

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| TIME | AGENDA |
|-------|--|
| 10:00 | Executive Session |
| 10:30 | Return to Open Session |
| 10:32 | Official Call to Order |
| 10:32 | Approval of Minutes |
| 10:32 | Report of Prosecutorial Division |
| 10:33 | Report of Board Counsel |
| 10:33 | Report of Regulatory Counsel |
| 11:16 | Report of Board Administrator |
| 11:18 | For the Board's Information/Discussion |
| 11:53 | Miscellaneous |
| 12:19 | Appointments |
| 12:21 | Adjournment |