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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: 10:32 A.M.

Held at

**PENNSYLVANIA DEPARTMENT OF STATE**

2601 North Street

One Penn Center, Board Room C

Harrisburg, Pennsylvania 17110

as well as

**VIA MICROSOFT TEAMS**

Wednesday, April 19, 2023



1 \*\*\*

2 State Board of Podiatry

3 April 19, 2023

4 \*\*\*

5 [Pursuant to Section 708(a)(5) of the Sunshine Act,  
6 at 10:00 a.m. the Board entered into Executive  
7 Session with Todd P. Kriner, Esquire, Board Counsel,  
8 for the purpose of conducting quasi-judicial  
9 deliberations on the matters listed under the Report  
10 of Board Counsel. The Board returned to open session  
11 at 10:30 a.m.]

12 \*\*\*

13 The regularly scheduled meeting of the State  
14 Board of Podiatry was held on Wednesday, April 19,  
15 2023. Michael J. Paris, D.P.M., M.B.A., Chairman,  
16 called the meeting to order at 10:32 a.m.

17 \*\*\*

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

22 \*\*\*

23 [Todd P. Kriner, Esquire, Board Counsel, noted the  
24 Board engaged in quasi-judicial deliberations during  
25 Executive Session on the matters listed under the

1 Report of Board Counsel and Report of Prosecution.]

2

\*\*\*

3 Approval of minutes of the February 15, 2023 meeting

4 CHAIRMAN PARIS:

5

Number 2 on the agenda is approval of  
minutes. I am assuming everyone had a  
chance to read the minutes from the last  
meeting.

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21 DR. MCCAUGHAN:

22

I'll make that motion to approve.

23 DR. WEBER:

24

Second.

25 CHAIRMAN PARIS:

1                   Could we have a roll call vote?

2

3                   Dr. Paris, aye; Dr. Weber, aye; Dr.  
4                   McCaughan, aye; Dr. Greenberg, aye; Dr.  
5                   Fetchik, aye; Mr. Claggett, aye.

6 [The motion carried unanimously.]

7

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8 [Todd P. Kriner, Esquire, Board Counsel, informed  
9 Board members that they should not vote if they have  
10 not read the minutes.]

11

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12 Report of Prosecutors - No Report

13 [Kayla R.B. Bolan, Esquire, Board Prosecution  
14 Liaison, presented the Consent Agreement for Case  
15 Nos. 21-44-011856 & 21-44-003970.]

16 MR. KRINER:

17                   Pursuant to the discussion in Executive  
18                   Session, it's my understanding that the  
19                   Board would entertain a motion to approve  
20                   the Consent Agreement at Case Nos. 21-44-  
21                   011856 & 21-44-003970.

22 DR. MCCAUGHAN:

23                   I move to approve the Consent Agreement.

24 DR. WEBER:

25                   Second.

1 CHAIRMAN PARIS:

2                   Could we get a roll call vote?

3

4                   Mr. Claggett, aye; Dr. Paris, aye; Dr.  
5                   Weber, aye; Dr. McCaughan, aye; Dr.  
6                   Greenberg, aye; Dr. Fetchik, aye.

7 [The motion carried unanimously. The Respondent's  
8 name at Case Nos. 21-44-011856 & 21-44-003970 is  
9 David Gregory Sanderson, D.P.M.]

10

\*\*\*

11 Report of Board Counsel - Final Adjudications for  
12 Approval

13 MR. KRINER:

14                   Pursuant to discussions in Executive  
15                   Session, it is my understanding that the  
16                   Board would entertain a motion to accept  
17                   the Final Adjudication and Order at Case  
18                   No. 20-44-007743.

19 DR. MCCAUGHAN:

20                   I'll make the motion to approve that.

21 DR. WEBER:

22                   Second.

23 CHAIRMAN PARIS:

24                   Roll call vote.

25

1 Mr. Claggett, aye; Dr. Paris, aye; Dr.  
2 Weber, aye; Dr. McCaughan, aye; Dr.  
3 Greenberg, aye; Dr. Fetchik, aye.

4 [The motion carried unanimously. The Respondent's  
5 name at Case No. 20-44-007743 is Steven C. Nielson,  
6 D.P.M.]

7 \*\*\*  
8 Report of Board Counsel - Other

9 [Todd P. Kriner, Esquire, Board Counsel, provided an  
10 update regarding Dr. Lawrence Kansky's appeal. He  
11 noted the respondent is a podiatrist and an attorney,  
12 and the court issued an order to decide the issue on  
13 briefs, where there would be no oral argument. He  
14 mentioned that was done last month and are currently  
15 waiting for the Commonwealth Court to issue their  
16 decision on the matter.]

17 \*\*\*  
18 Report of Board Counsel - Regulatory Status Report  
19 [Todd P. Kriner, Esquire, Board Counsel, informed  
20 Board members that he is still revising and drafting  
21 16A-449 regarding acupuncture.

22 Mr. Kriner addressed 16A-4419 regarding licensure  
23 by endorsement and qualifications for licensure. He  
24 noted prior Board discussion concerning competency  
25 and whether an individual can just take one portion

1 of the American Podiatric Medical Licensing  
2 Examination (APMLE). He awaited a response as to  
3 whether an individual could register for just the  
4 second part of the exam.

5 Mr. Kriner noted that he is still drafting 16A-  
6 4418 regarding administration and prescription of  
7 drugs and continuing education (CE) to mirror the  
8 State Board of Medicine and State Board of Nursing.

9 Mr. Kriner informed Board members that another  
10 member of counsel is drafting 16A-4411 regarding the  
11 volunteer license for all of the boards but has not  
12 seen the draft.

13 Mr. Kriner noted regulatory counsel is drafting  
14 16A-4412 regarding child abuse reporting  
15 requirements.

16 Mr. Kriner referred to annex and preamble for  
17 16A-448 regarding sexual misconduct and requested  
18 Board approval for the annex.]

19 MR. KRINER:

20 The motion would be that the Board would  
21 vote to release an exposure draft of the  
22 annex to interested parties and  
23 stakeholders and to allow 30 days for  
24 comments in time to go ahead to the next  
25 agenda for the regulatory meeting.

1                   The motion would be to vote to  
2                   release an exposure draft of the annex.

3 DR. MCCAUGHAN:

4                   I'll make that motion.

5 DR. WEBER:

6                   Second.

7 CHAIRMAN PARIS:

8                   Could we have a roll call vote?

9

10                   Mr. Claggett, aye; Dr. Paris, aye; Dr.  
11                   Weber, aye; Dr. McCaughan, aye; Dr.  
12                   Greenberg, aye; Dr. Fetchik, aye.

13 [The motion carried unanimously.]

14

\*\*\*

15 Report of Board Counsel - Regulatory Status Report  
16 [Todd P. Kriner, Esquire, Board Counsel, addressed  
17 16A-4420 regarding radiographic assistants. He noted  
18 previous Board discussion and referred to language  
19 changes in the annex pursuant to Board concerns and  
20 requested Board approval to release the exposure  
21 draft.]

22 MR. KRINER:

23                   I would be looking for the Board to  
24                   entertain a motion to release an exposure  
25                   draft of the annex to interested parties

1 and stakeholders.

2 DR. MCCAUGHAN:

3 I'll make that motion.

4 DR. WEBER:

5 Second.

6 CHAIRMAN PARIS:

7 Roll call vote.

8

9 Mr. Claggett, aye; Dr. Paris, aye; Dr.

10 Weber, aye; Dr. McCaughan, aye; Dr.

11 Greenberg, aye; Dr. Fetchik, aye.

12 [The motion carried unanimously.]

13

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14 Report of Board Counsel - Regulatory Status Report

15 [Todd P. Kriner, Esquire, Board Counsel, referred to

16 16A-4418 regarding the administration and

17 prescription of drugs and continuing education. He

18 thanked Dr. McCaughan for creating the list, noting

19 he amended that part of the regulation and discussed

20 it again with Dr. McCaughan about not constraining

21 the Board to using specific drugs. He mentioned that

22 Dr. McCaughan removed those and would have that in

23 front of the Board at the next meeting.

24 Chairman Paris commented that language regarding

25 carryover of credits would also be added within the

1 regulation.

2 Mr. Kriner stated the therapeutic drug portion  
3 had been presented years ago and was rejected. He  
4 mentioned that the reason it has been taking longer  
5 is to address all those concerns and to make sure it  
6 goes this time but did not expect the continuing  
7 education carryover portion of the regulation to be  
8 an issue.

9 Mr. Kriner referred to the legislative initiative  
10 to have the definition of physician to include  
11 podiatrist. He informed Board members that the  
12 proposal was resubmitted on March 1 to the Department  
13 of State Office of Policy for review with the  
14 Governor's Office of Policy and Planning and would  
15 provide any information he receives.]

16 \*\*\*

17 Report of Board Counsel - Other

18 [Todd P. Kriner, Esquire, Board Counsel, addressed a  
19 letter regarding a one-time 8-hour training  
20 requirement for all Drug Enforcement Administration  
21 (DEA) registered practitioners except for  
22 veterinarians. He noted the deadline for the  
23 training requirement is the date of the prescriber's  
24 next DEA registration submission.

25 Acting Commissioner Claggett offered to send

1 email blasts to all licensees.

2 Dr. Weber referred to the deadline to satisfy the  
3 training on or after June 27, 2023, and asked how  
4 much time someone would have after that expiration  
5 date. He believed the reason this came to be was for  
6 the management of general practice physicians  
7 treating patients with a history of drug overdose or  
8 other complications of taking opioids.

9 Dr. Weber mentioned it is somewhat hazy if the  
10 physician is only writing for a postop patient and  
11 noted the average podiatrist patient takes very  
12 little opioids. He also noted they check with  
13 patients in advance for any history of opioid  
14 addiction or issues that would compromise surgery.  
15 He mentioned that the American Podiatric Medical  
16 Association (APMA) is in the process of reevaluating  
17 the issue.]

18

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19 Appointment - Pennsylvania Department of Insurance -  
20 Insurance - Medical Care Availability and  
21 Reduction

22 of Error Fund Presentation (MCARE)

23 [Tawny K. Mumma, Executive Director, Pennsylvania  
24 Insurance Department, presented to the Board to  
25 address questions first asked by Acting Commissioner

1 Claggett regarding MCARE coverage and how to identify  
2 insurers who would provide coverage required by the  
3 statutory scheme of Act 13. She stated the Board  
4 would be shown a tool on their website to identify  
5 insurers who are writing medical professional  
6 liability coverage in Pennsylvania.

7 Ms. Mummah explained that MCARE is the Medical  
8 Care Availability and Reduction of Error Fund created  
9 by Act 13 of 2002, which is a patient compensation  
10 fund that was created to replace the Medical  
11 Professional Liability Catastrophe Loss Fund (CAT).  
12 She noted the patient compensation fund has been  
13 around in Pennsylvania for 48 years and serve the  
14 commonwealth healthcare provider community by  
15 providing coverage and serve injured persons by  
16 paying medical malpractice claims on behalf of those  
17 healthcare providers.

18 Ms. Mummah stated MCARE is comprised of a  
19 coverage unit, claims unit, and compliance unit. She  
20 noted that Pennsylvania physicians, certified nurse  
21 midwives, hospitals, birth centers, primary  
22 healthcare centers, and nursing homes are defined as  
23 healthcare providers by their statute and required to  
24 have medical malpractice insurance coverage of \$1  
25 million per occurrence.

1 Ms. Mummah explained that coverage must be  
2 provided by an insurer or self-insurer who is  
3 licensed or approved to provide that coverage by  
4 another portion of the Pennsylvania Insurance  
5 Department. She stated MCARE is a bureau within the  
6 Pennsylvania Insurance Department but another bureau  
7 is in charge of approving those insurers.

8 Ms. Mummah stated a healthcare provider that  
9 practices 50 percent or more in Pennsylvania have to  
10 participate in the statutory scheme, where the first  
11 \$500,000 of coverage is provided by that insurer that  
12 is in the private insurance market, self-insurer, or  
13 risk retention group (RRG), which is referred to in  
14 the statute as primary coverage.

15 Ms. Mummah stated upon the report of primary  
16 coverage, an insurer reports to them that they are  
17 providing primary coverage for the healthcare  
18 provider at the statutory limit of \$500,000 and also  
19 provide the healthcare provider's assessment. She  
20 noted that once that is done that MCARE is in excess  
21 \$500,000 above the primary coverage of \$500,000. She  
22 addressed last year, where all the claims submitted  
23 to them with the primary carrier committing their  
24 \$500,000 of coverage totaled \$172.3 million.

25 Ms. Mummah explained that MCARE is a pay as you

1 go system fully funded by healthcare provider  
2 assessments. She mentioned that there are no tax  
3 dollars, general funds, or monies that go to them  
4 because the assessment is to cover the claims and  
5 operational cost.

6 George Wohltman, Chief, Administration and  
7 Coverage Compliance Division, Medical Care  
8 Availability and Reduction of Error Fund,  
9 Pennsylvania Insurance Department, provided  
10 information identifying insurers on the Pennsylvania  
11 Insurance Department's website. He explained that  
12 admitted insurers, surplus lines insurers, and risk  
13 retention groups are insurers recognized as reporting  
14 primary coverage to MCARE.

15 Mr. Wohltman addressed the Remittance Advice  
16 Form, also known as Form e-216, used by insurers to  
17 report primary coverage policy information to MCARE.  
18 He noted the list on the form are the ones that have  
19 shown the intent to report coverage to MCARE, and the  
20 link shown earlier is a list of all insurance  
21 companies and not just medical malpractice insurers.

22 He explained that Form e-216 serves as a coverage  
23 reporting form and an accounting form and is the  
24 preferred method for primary insurers and self-  
25 insurers to report basic insurance coverage to MCARE.

1 Mr. Wohltman noted the form is completed by the  
2 approved primary insurers and that healthcare  
3 providers do not complete the form. He mentioned  
4 that the form is routinely updated with new insurers  
5 that are verified through the Pennsylvania Insurance  
6 Department's website using their name and agency  
7 insurance company (AIC) number.

8 Mr. Wohltman stated any insurer is not on any of  
9 the three links shown earlier would need a copy of an  
10 approval letter, or if they are unable to supply  
11 that, they would direct them to a contact for that  
12 area within the Pennsylvania Insurance Department  
13 (PID). He provided a step-by-step process of  
14 accessing the latest Form e-216 on the Pennsylvania  
15 Insurance Department's website. He mentioned that  
16 the version number is changed every time the form is  
17 updated.

18 Mr. Wohltman explained that a list of insurers  
19 able to report primary coverage information to MCARE  
20 could be accessed once Form e-216 has been opened  
21 from the drop-down menu primary carrier. He provided  
22 examples of what Form e-216 looks like when complete  
23 with primary coverage information.

24 Mr. Wohltman noted the assessment is calculated  
25 as a percentage of the Pennsylvania Professional

1 Liability Joint Underwriting Association's (JUA)  
2 rates as approved by the Pennsylvania Insurance  
3 Department and is 19 percent for 2023. He addressed  
4 additional resources for insurers when completing  
5 Form e-216 that includes an assessment manual, tools  
6 manual, and rating information.

7 Speaker 4

8 Dr. Weber asked whether it would be feasible in  
9 the future for a physician not to pay anything toward  
10 the MCARE Fund whereby a primary insurance carrier  
11 would handle the total premium.

12 Ms. Mummah explained that a physician practicing  
13 less than 50 percent in Pennsylvania would have the  
14 option to get all of their coverage, the \$1 million,  
15 in the private insurance market. She stated there is  
16 a statutory provision in Act 13 that allows  
17 podiatrist, as a group, to decide to exit and leave  
18 MCARE. She mentioned that is still in the law and  
19 could happen. She addressed difficulties podiatrists  
20 may have because they would have to figure out a way  
21 to pay for the tail, which is all of the risk they  
22 currently have for future claims. She noted the  
23 statute permits podiatrists to exit MCARE, but they  
24 must figure out how to finance future claims that  
25 already exist or may be brought within their statute.

1 Dr. Weber commented that the two basic formats as  
2 it stands now are occurrence and claims made and  
3 asked if somebody has occurrence, would they still  
4 legally have to pay the MCARE.

5 Ms. Mummah explained that regardless of whether  
6 someone has occurrence or claims-made coverage that  
7 it is not a factor that weighs in concerning MCARE  
8 participation at all.

9 Dr. Weber asked whether the MCARE Fund is slowly  
10 going down now that they are contributing.

11 Ms. Mummah stated the assessment percentage rate  
12 is calculated by anticipating what it is going to  
13 cost them to cover the claims for the next year as  
14 well as operational expenses and that it is not going  
15 down. She mentioned that the largest driver in the  
16 assessment rate that is issued every year is the  
17 claims experience, so if they have a high-claims  
18 year, their assessment rate could go up. She also  
19 noted the assessment rate fluctuates.

20 Mr. Wohltman further explained that their  
21 assessment rate was at 19 percent and stable from  
22 2017 through 2021 and then claims experience  
23 decreased significantly due to the pandemic, where  
24 MCARE's assessment rate was 12 percent in 2022 but  
25 returned to 19 percent in 2023.

1 Ms. Mummah noted the PowerPoint would be provided  
2 for distribution, along with contact information.

3 Dr. Greenberg asked whether it is possible for  
4 the Pennsylvania Insurance Department to establish a  
5 link to the Podiatry Board website for licensees to  
6 have access to the admitted licensed insurers and  
7 rates for medical malpractice in Pennsylvania.

8 Ms. Mummah explained that the Board of Podiatry  
9 could make a decision about linking to the  
10 Pennsylvania Insurance Department's website but that  
11 a more direct link to locate insurers may not be  
12 possible. She commented that the steps are all there  
13 but offered to look into whether the process could be  
14 shortened.

15 Dr. Greenberg suggested placing the steps on the  
16 Board's website so individual licensees would have  
17 the steps available to them until it is made more  
18 user-friendly in the future.

19 Chairman Paris commented that making sure  
20 licensees have live links in the list of steps like  
21 the Board had during the PowerPoint presentation  
22 would be great.

23 Acting Commissioner Claggett stated they could  
24 look through the links and add it to the Board's web  
25 page.

1 Chairman Paris asked whether the terms licensed,  
2 admitted, and approved were basically the same.

3 Ms. Mummah explained that the Pennsylvania  
4 Insurance Department does not have the authority to  
5 license a risk retention group and have a different  
6 standard. She noted there is different terminology  
7 depending on what type of group is providing the  
8 insurance and whether they are admitted, approved, or  
9 licensed.

10 Dr. McCaughan asked what portion of the MCARE  
11 funds are used for operational expenses.

12 George Spataro, Director, Administration and  
13 Coverage Compliance Division, Medical Care  
14 Availability and Reduction of Error Fund,  
15 Pennsylvania Insurance Department, provided a  
16 ballpark figure, noting about 4-5 percent of what is  
17 received is used for operational expenses. He  
18 explained that the percentage can vary based on the  
19 assessment rate with the understanding that the  
20 assessment rate has been relatively stable at 19  
21 percent.]

22 Chairman Paris thanked everyone for the  
23 presentation.]

24 \*\*\*

25 Report of Board Chair

1 [Michael J. Paris, D.P.M., M.B.A., Chairman, informed  
2 everyone that the Board as currently constructed most  
3 likely only has two meetings left with the current  
4 members and encouraged all Board members to think  
5 about any old business, new business, or discussions  
6 they would like to bring to the table at the next  
7 meeting.

8 Chairman Paris requested information concerning  
9 the process for individuals who may want to become  
10 members of the State Board of Podiatry and whether it  
11 still includes getting their local senator involved  
12 and writing a letter to the governor.

13 Acting Commissioner Claggett explained that  
14 anyone interested in becoming a Board member would  
15 contact their local senator or representative by  
16 having them write a letter to the governor's office.

17 He also mentioned that everyone would be vetted to  
18 make sure they qualify to be on the Board and have no  
19 conflicts.

20 Ms. Wray also mentioned that they need to provide  
21 their curriculum vitae, along with the letter of  
22 recommendation.]

23

\*\*\*

24 Report of Acting Commissioner - No Report

25

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1 Report of Board Administrator

2 [Nichole Wray, Board Administrator, introduced and  
3 welcomed Priscilla Turek as the new Board  
4 administrator moving forward. She noted Board  
5 members would be provided with contact information.

6 Ms. Wray reminded everyone to file their  
7 Financial Disclosure Statement because the deadline  
8 is May 1. She mentioned that everyone should have  
9 received an email on how to complete the form  
10 online.]

11 \*\*\*

12 Continuing Education Program Approval

13 CHAIR PARIS:

14 We have a continuing education program  
15 approval on the agenda at number 15. I  
16 was not sure if this had already been  
17 approved by the CE Committee or is  
18 something we need to approve.

19 DR. MCCAUGHAN:

20 I reviewed everything 2 to 3 weeks ago  
21 and already had approved it.

22 I'll make that motion to approve.

23 DR. WEBER:

24 Second.

25 CHAIRMAN PARIS:

1 Do the roll call vote.

2

3 Mr. Claggett, aye; Dr. Paris, aye; Dr.  
4 Weber, aye; Dr. McCaughan, aye; Dr.  
5 Greenberg, aye; Dr. Fetchik, aye.

6 [The motion carried unanimously. The motion is for  
7 the Jefferson Health Podiatry Grand Rounds April 27,  
8 2023 Meeting.]

9

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10 For the Board's Information/Discussion - Board  
11 Meeting Dates

12 [Michael J. Paris, D.P.M., M.B.A., Chairman, noted  
13 2023 and 2024 meeting dates for the Board's review.]

14

\*\*\*

15 For the Board's Information/Discussion - Old  
16 Business/New Business - Approval of Proposed 2025  
17 Board Meeting Dates

18 [Nichole Wray, Board Administrator, noted the  
19 previous April and October 2025 dates have already  
20 been taken and requested approval for Wednesday,  
21 April 23, 2025 and Wednesday, October 22, 2025.]

22 CHAIR PARIS:

23 Could we get a motion to approve the  
24 proposed changed dates?

25 DR. MCCAUGHAN:

1 I'll make that motion.

2 DR. WEBER:

3 Second.

4 CHAIRMAN PARIS:

5 Could we get a roll call vote?

6

7 Mr. Claggett, aye; Dr. Paris, aye; Dr.

8 Weber, aye; Dr. McCaughan, aye; Dr.

9 Greenberg, aye; Dr. Fetchik, aye.

10 [The motion carried unanimously.]

11

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12 [Michael J. Paris, D.P.M., M.B.A., Chairman, reminded

13 everyone that the June 28 meeting date is the fourth

14 week in June.

15 Dr. McCaughan addressed the Drug Enforcement  
16 Administration 8-hour training and referred to page 2  
17 under key points related to the training, where past  
18 trainings on the treatment and management of patients  
19 with opioid or other substance use disorders could  
20 count toward a practitioner meeting this requirement.  
21 She referred to where it reads that the training  
22 counts toward the 8-hour requirement for anyone who  
23 received relevant training prior to the enactment of  
24 the new training obligation.

25 Dr. McCaughan requested clarity as to how far

1 back someone could go with opioid training already  
2 completed.

3 Mr. Kriner suggested Dr. McCaughan reach out to  
4 the DEA for clarity.

5 Dr. Greenberg suggested sending out an email  
6 blast to licensees regarding the DEA requirements  
7 because PPMA only covers half of the licensees.]

8 \*\*\*

9 Adjournment

10 CHAIRMAN PARIS:

11 Can we get a motion to adjourn the  
12 meeting?

13 DR. MCCAUGHAN:

14 I'll make the motion to adjourn.

15 DR. WEBER:

16 Second.

17 CHAIRMAN PARIS:

18 The meeting is adjourned.

19 \*\*\*

20 [There being no further business, the State Board of  
21 Podiatry Meeting adjourned at 11:37 a.m.]

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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.

*Benjamin Morrow*

Benjamin Morrow,  
Minute Clerk  
Sargent's Court Reporting  
Service, Inc.

STATE BOARD OF PODIATRY  
REFERENCE INDEX

April 19, 2023

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23		Of Insurance - Medical Care
24		Availability and Reduction of Error
25		Fund Presentation
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29	11:28	Report of Board Administrator
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31	11:31	Continuing Education Program
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33	11:32	For the Board's Information/Discussion
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36	11:37	Adjournment
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