

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

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: 10:33 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, June 28, 2023

State Board of Podiatry
June 28, 2023

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

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 P. Kriner, Esquire, Board Counsel
Timothy J. Henderson, Esquire, Board Prosecution Liaison
Nichole Wray, Division Chief
Priscilla Turek, Board Administrator
Marc Farrell, Esquire, Regulatory Counsel, Office of Chief Counsel, Department of State
Andrew LaFratte, MPA, Executive Policy Specialist, Department of State

ALSO PRESENT:

Derek Richmond
Jennifer Smeltz

1 ***

2 State Board of Podiatry

3 June 28, 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, June 28,
15 2023. Michael J. Paris, D.P.M., M.B.A., Chairman,
16 called the meeting to order at 10:33 a.m.

17 ***

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

22 ***

23 Approval of minutes of the April 19, 2023 meeting
24 CHAIRMAN PARIS:

25 Number 2 on the agenda is approval of

1 minutes. You've all had the opportunity
2 to look over the minutes. We'll be
3 looking for a motion to approve the
4 minutes.

5 DR. WEBER:

6 Motion to approve.

7 DR. GREENBERG:

8 I second.

9 CHAIRMAN PARIS:

10 Could we have a roll call vote?

11

12 Mr. Claggett, aye; Dr. Paris, aye; Dr.
13 Weber, aye; Dr. McCaughan, aye; Dr.
14 Greenberg, aye; Dr. Fetchik, aye.

15 [The motion carried unanimously.]

16

17 [Todd P. Kriner, Esquire, Board Counsel, noted the
18 Board met in Executive Session to discuss matters
19 under the Report of Prosecutors and Report of Board
20 Counsel.]

21 Mr. Kriner also noted the meeting was being
22 recorded and voluntary participation constituted
23 consent to be recorded.]

24

25 Report of Prosecutors

1 [Timothy J. Henderson, Esquire, Board Prosecution
2 Liaison, informed Board members that the prosecution
3 division is increasing outreach efforts, including
4 speaking to individuals and conducting presentations
5 at schools for perspective licensees. He stated his
6 office intends to conduct a presentation at the
7 Temple University School of Podiatric Medicine and
8 Lake Erie College of Osteopathic Medicine and School
9 of Podiatric Medicine.

10 Mr. Henderson noted his office welcomes any input
11 from the Board for future opportunities for outreach
12 and would be willing to join the Board at future
13 opportunities for outreach.

14 Chairman Paris requested information regarding
15 the outreach and whether he would be discussing the
16 role of the Board or the profession of podiatry.

17 Mr. Henderson explained that it would be a
18 general overview of the complaint process and is from
19 a prosecution standpoint rather than a Board
20 standpoint. He noted prosecution would invite any
21 Board updates they may want prosecution to share
22 during the presentations.

23 Mr. Henderson presented the Consent Agreement for
24 Case No. 23-44-005150.]

25 MR. KRINER:

1 Pursuant to the discussions in Executive
2 Session, I believe the Board would
3 entertain a motion to approve the Consent
4 Agreement at Case No. 23-44-005150.

5 DR. WEBER:

6 I motion to approve the Report of the
7 Prosecutors.

8 DR. GREENBERG:

9 I second that motion.

10 CHAIRMAN PARIS:

11 Could we have a roll call vote?

12

13 Mr. Claggett, aye; Dr. Paris, aye; Dr.
14 Weber, aye; Dr. McCaughan, aye; Dr.
15 Greenberg, aye; Dr. Fetchik, aye.

16 [The motion carried unanimously. The Respondent's
17 name is Mark Tirone, D.P.M.]

18 ***

19 Report of Board Counsel

20 [Todd P. Kriner, Esquire, Board Counsel, noted there
21 are currently three open disciplinary cases. He
22 mentioned that the Board is waiting on the
23 Commonwealth Court to issue their opinion concerning
24 Dr. Lawrence Kansky.]

25 ***

1 Report of Board Counsel - Regulatory Status Report
2 [Todd P. Kriner, Esquire, Board Counsel, informed
3 Board members that he is currently drafting 16A-449
4 regarding acupuncture.

5 Mr. Kriner noted that he is also still drafting
6 16A-4418 regarding administration and prescription of
7 drugs and continuing education (CE). He believed the
8 therapeutic drug section has been ironed out and
9 thanked Dr. McCaughan for her help. He stated he is
10 still working on the opioid language.

11 Mr. Kriner noted the Board approved the release
12 of the exposure draft for 16A-448 regarding sexual
13 misconduct at the last meeting and received no
14 comments from the public or stakeholders.]

15 MR. KRINER:

16 I would be looking for a motion to direct
17 counsel to promulgate that regulation
18 through the regulatory review process.

19 CHAIRMAN PARIS:

20 Is there someone who would be willing to
21 make that motion?

22 DR. WEBER:

23 I make the motion to proceed with the
24 review.

25 DR. GREENBERG:

1 I second that motion.

2 CHAIRMAN PARIS:

3 Roll call vote.

4

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

6 Weber, aye; Dr. McCaughan, aye; Dr.

7 Greenberg, aye; Dr. Fetchik, aye.

8 [The motion carried unanimously.]

9

10 Report of Board Counsel - Regulatory Status Report

11 [Todd P. Kriner, Esquire, Board Counsel, informed

12 Board members that 16A-4411 regarding the volunteer

13 license and 16A-4412 regarding child abuse reporting

14 requirements are being drafted. He stated the child

15 abuse regulation is farther along, noting other

16 counsel is drafting both of those regulations because

17 they basically touch every single board.

18 Mr. Kriner addressed 16A-4420 regarding

19 radiographic assistants, noting the Board approved

20 the release of the exposure draft at the last meeting

21 but received no comments from stakeholders or the

22 public.

23 Dr. Weber commented that someone who wanted to

24 volunteer for podiatric care in any organization in

25 the state would still need a full license and are

1 required to complete the same continuing medical
2 education (CME) and other requirements and is not a
3 separate type of license.

4 Dr. Weber noted that people who volunteer still
5 have the same license, though it may be possible in
6 certain circumstances where their practice insurance
7 may be covered by the organization instead
8 themselves.

9 Dr. Greenberg requested Dr. Weber provide an
10 example of a situation.

11 Dr. Weber stated he knows a doctor who volunteers
12 at a free clinic on a monthly basis but took for
13 granted his practice insurance was covered by the
14 organization because he never asked him.

15 Dr. Greenberg stated they need to be licensed and
16 have insurance.

17 Dr. Weber noted that is the point they do not
18 understand.

19 Mr. Kriner commented that he could not provide an
20 answer to explain the difference and what the
21 specific regulation is saying because someone else in
22 the counsel division is drafting the regulation. He
23 offered to provide an overview and update of what the
24 regulation is proposing.]

25 MR. KRINER:

1 Regarding radiographic assistants, I
2 would be looking for a motion to direct
3 counsel to promulgate that regulation
4 through the regulatory review process.

5 DR. WEBER:

6 I make the motion to proceed with the
7 regulatory process.

8 DR. GREENBERG:

9 I second that motion.

10 CHAIRMAN PARIS:

11 Could we have a roll call vote?.

12

13 Mr. Claggett, aye; Dr. Paris, aye; Dr.
14 Weber, aye; Dr. McCaughan, aye; Dr.
15 Greenberg, aye; Dr. Fetchik, aye.

16 [The motion carried unanimously.]

17

18 [Todd P. Kriner, Esquire, Board Counsel, informed
19 Board members that a Regulatory Analysis Form (RAF)
20 would be drafted for both of the regulations for the
21 Independent Regulatory Review Commission (IRRC). He
22 noted the package is almost complete and would be
23 provided at the next Board meeting, given to
24 regulatory counsel, and then through the chain for
25 review.]

1 Mr. Kriner mentioned that there should not be
2 many edits or concerns because there has not been a
3 lot of controversy regarding those regulations.

4 Dr. Greenberg asked how many levels of review are
5 in the regulatory process.

6 Mr. Kriner explained that there are three levels
7 for a proposed regulation before it goes to IRRC,
8 noting that he sets up a meeting with IRRC and
9 presents it once it is received.

10 Chairman Paris asked what the next step is
11 regarding the prescription drug regulation since it
12 is not as far along.

13 Mr. Kriner explained that it is not as far along
14 because they had to go back and forth with the
15 therapeutic drugs. He noted the rest of it should be
16 pretty easy as far as getting the language drafted.
17 He mentioned that therapeutic drugs on its own years
18 ago was proposed to be amended to add more general
19 classifications but was shot down.

20 Mr. Kriner stated he was trying to prevent that
21 from happening again by addressing issues on the
22 front end and is the reason for the slow movement.

23 Dr. Greenberg asked what level of review throws
24 the regulation back to Mr. Kriner during the
25 regulatory process.

1 Mr. Kriner explained that it goes to the Bureau
2 of Professional and Occupational Affairs (BPOA) for
3 their approval and other governmental steps for their
4 approval.

5 Acting Commissioner Claggett recommended
6 following up on the regulatory process at the next
7 meeting.

8 Chairman Paris commented that the carryover of
9 CME credits is attached, and Mr. Kriner confirmed
10 that it is in there.]

11 ***

12 Report of Board Counsel - Other

13 [Todd P. Kriner, Esquire, Board Counsel, referred to
14 Senate Bill 739 regarding telemedicine for the
15 Board's information. He mentioned the State Board of
16 Medicine and State Board of Osteopathic Medicine did
17 a legislative analysis of the bill and provided the
18 language for the Board's review.

19 Mr. Kriner provided a legislative initiative
20 update regarding the definition of physician to
21 include podiatrist. He informed Board members that
22 the Department of State Policy Office and the
23 Governor's Policy Office do not support changing the
24 definition of physician to include podiatrist.

25 Mr. Kriner explained that the concern was about

1 reimbursement and should be addressed with the
2 Department of Health.

3 Dr. Greenberg stated it was not even remotely
4 close to the point.

5 Mr. Kriner asked what is remotely the point
6 because the language was approved by the Board and
7 sent into legislative initiative.

8 Dr. Greenberg commented that the entire point of
9 the legislation was because podiatry is currently
10 considered an ancillary service and ancillary form of
11 board. He explained that podiatry services could be
12 taken away if there is a budget crisis.

13 Dr. Greenberg noted podiatry is not mandatory and
14 anyone who receives welfare insurance would not have
15 access to podiatry services, which was the main point
16 of their request. He stated it should be acceptable
17 to have a statement by medical doctors (MDs) and
18 doctors of osteopathic medicine (DOs) to take care of
19 all those patients who no longer have access to
20 podiatry if they are not going to approve the use of
21 the word physician.

22 Dr. Greenberg commented that the other reasons
23 were absolutely mentioned but were minor. He stated
24 the whole purpose of the Board is for the safety and
25 health of residents of Pennsylvania, including people

1 on welfare. He mentioned that people who are on
2 welfare now are at risk whenever there is a budgetary
3 crisis because what has come up in the past was for
4 podiatry services to be removed because it is not
5 mandatory.

6 Chairman Paris commented that it goes beyond
7 reimbursement and has dealt with this personally,
8 where he had to order physical therapy services for
9 patients through a physical therapist or a physical
10 therapy company but was told his orders would not be
11 honored as he is not a physician. He expressed
12 concern regarding who would write orders for wound
13 care because their family physician does not know
14 what needs to be done for the wounds.

15 Dr. Greenberg stated the essence of the Board's
16 request was to have welfare patients across the state
17 still have access to podiatry services and to avoid
18 the possibility of those services being removed in a
19 budgetary crisis.

20 Mr. Kriner noted that it was included in the
21 legislative initiative but that they may have
22 misinterpreted it because of the response he
23 received.

24 Dr. Greenberg commented that MDs and DOs should
25 agree to assume the care of all those patients and

1 accept welfare insurance if podiatry services are not
2 mandatory and removed due to a budgetary crisis
3 because they are not physicians. He noted that those
4 people would have nowhere to go for foot care
5 problems unless it is made mandatory that they be
6 accepted by MDs and DOs, which would make it fair for
7 the health and safety of those patients.

8 Dr. Greenberg mentioned that at the current time
9 a podiatrist cannot be called a physician but
10 licensees are allowed to not accept welfare
11 insurance, where people would be forced to go to the
12 podiatrist to treat them for free because they
13 ethically have to keep treating them once someone
14 starts treating a patient even if they are not
15 getting paid.

16 Acting Commissioner Claggett stated it is not as
17 simple as having other boards agree to do that but
18 noted that Mr. Kriner could take some of the
19 information back for another discussion.

20 Dr. Greenberg further explained that every
21 welfare patient who has welfare coverage are at risk
22 if podiatry is taken away because of a budgetary
23 crisis because the state would not pay for podiatry
24 services because it is not mandatory like it is for
25 physicians. He stated anyone who develops a new

1 problem, such as a foot ulcer, would not be accepted
2 by a podiatrist if they are off the table and would
3 not be accepted by an MD or DO because they do not
4 accept welfare.

5 Dr. Greenberg mentioned that it is common for
6 budgetary crises to arise in states, especially
7 Pennsylvania, which puts welfare patients at risk.
8 He noted that requiring MDs and DOs to accept welfare
9 insurance for podiatric problems if podiatry is
10 removed from the table would take patients out of
11 that risk.

12 Chairman Paris commented that it is important for
13 the Governor's Office to realize this is coming from
14 the Board, noting their agenda is the safety and
15 welfare of the citizens of Pennsylvania and not about
16 reimbursement. He mentioned that it would be a
17 different story if it was coming from a state
18 association.

19 Dr. Greenberg noted that the talk about
20 reimbursement or fees was from a different
21 organization and stakeholder to the Board but is why
22 it is important for the Board to be independent from
23 political organizations.]

24 ***

25 Report of Board Chair

1 [Michael J. Paris, D.P.M., M.B.A., Chairman,
2 addressed their regulation allowing online credits
3 for CMEs. He mentioned that 13 states were not
4 allowing 100 percent online when they first started
5 working on that regulation but is now down to 8. He
6 noted the 2 most restrictive states are Florida and
7 Minnesota and only allow 20 percent, which is what
8 the Board allowed before their regulation went
9 through.

10 Chairman Paris provided information from a topic
11 earlier this year in *Podiatry Management*, where
12 podiatrists in Florida were wondering why they cannot
13 get more credits online. He noted their state
14 association was holding them back, and they realized
15 there was a conflict of interest and different
16 priorities as far as what they are allowed and not
17 allowed to do regarding online credits.

18 Chairman Paris commented that everyone worked
19 together to do something good for the state and
20 practitioners in Pennsylvania, along with following
21 the rest of the country. He mentioned that MD and DO
22 counterparts are able to get their credits online.]

23

24 Report of Acting Commissioner

25 [Arion R. Claggett, Acting Commissioner, Bureau of

1 Professional and Occupational Affairs, informed
2 everyone that the State Board of Podiatry would be
3 moving to 2525 North 7th Street in Harrisburg on July
4 10, 2023. He noted that an announcement was placed
5 on the Board's website, and an email blast would be
6 sent at the end of the week.

7 Acting Commissioner Claggett also informed
8 everyone that the next Board meeting would be at One
9 Penn Center.]

10 ***

11 Report of Board Counsel - Regulatory Status

12 Report (cont.)

13 [Todd P. Kriner, Esquire, Board Counsel, addressed
14 the annex for 16A-4419 regarding licensure by
15 endorsement and qualifications for licensure. He
16 noted the need for further discussion concerning
17 competency. He mentioned the regulation was
18 initially written to show competency by one of two
19 ways, including experience in the practice of
20 podiatry by demonstrating they actively engaged in
21 practice for a minimum of two of the last five years
22 in their jurisdiction.

23 Mr. Kriner noted the other one was successfully
24 passing all parts of the exam and suggested removing
25 that part of the regulation to prove competency. He

1 explained that someone's education or qualifications
2 in a state that does not have the national exam would
3 not be substantially equivalent, and the Board would
4 have the ability to deny them their license coming in
5 under licensure by endorsement under act 41.

6 Mr. Kriner stated most of the other boards do not
7 have it and advised the Board to keep it similar to
8 the State Board of Osteopathic Medicine and State
9 Board of Medicine, where the Board would still have
10 the ability to review their qualifications.

11 Mr. Kriner referred to § 29.76(a)(2), demonstrate
12 competency by one of the following. He suggested
13 removing one of the following; keeping (i) experience
14 in the practice of podiatry by demonstrating, at a
15 minimum, that the applicant has actively engaged in
16 the practice of podiatry under a license, certificate
17 registration or permit in a jurisdiction or
18 jurisdictions that have substantially equivalent
19 licensure standards, for at least two of the five
20 years immediately preceding the filing of the
21 application with the Board; and removing (ii),
22 successfully passing all parts of APMLE within the
23 five years immediately preceding the filing of the
24 application with the Board.]

25 MR. KRINER:

1 Would there be a motion for that?

2 DR. WEBER:

3 I make the motion to follow the same
4 criteria as the MD Board and DO Board.

5 DR. GREENBERG:

6 I second that motion.

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, yes.

13 [The motion carried unanimously.]

14

15 [Eric B. Greenberg, D.P.M., J.D., mentioned having an
16 older colleague ask about whether the Board could
17 establish reciprocity of licensure between
18 Pennsylvania and South Carolina.

19 Dr. Greenberg commented that South Carolina may
20 have their own type of Act 41 but actually involves
21 grandfathering because South Carolina requires
22 passing three separate sections of the national
23 board, which did not come into being until after many
24 of the podiatrists in Pennsylvania started practice
25 but are now approaching the age where they are

1 thinking about going to South Carolina.

2 Dr. Greenberg asked whether someone could reach
3 out to the South Carolina State Board of Podiatry
4 Examiners to see if they wished to establish
5 reciprocity and grandfathering in between
6 Pennsylvania licensed podiatrists and South Carolina
7 licensed podiatrists.

8 Acting Commissioner Claggett offered to reach out
9 to the South Carolina State Board of Podiatry
10 Examiners directly concerning reciprocity.

11 Dr. Weber asked whether someone designated as a
12 physician in their state would be considered a
13 physician in Pennsylvania under proposition 41.

14 Dr. Greenberg explained that they would fall
15 under the laws of Pennsylvania. He stated any
16 argument outside the safety and health of residents
17 of Pennsylvania kills the entire request from the
18 Board because people with diabetic alterations or
19 those who are ready to suffer from those or any other
20 podiatric illness are at risk of losing care for
21 those services as the law now states.

22 Dr. Greenberg commented that a podiatrist should
23 be put under the title of physician if MD and DO
24 Boards do not accept welfare coverage for those
25 conditions.

1 ***

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

4 [Michael J. Paris, D.P.M., M.B.A., Chairman, referred
5 to meeting date changes for 2025.

6 Nichole Wray, Division Chief, explained that the
7 dates are the same dates approved by the Board but
8 were changed from proposed dates to final dates that
9 are now formally on the calendar.]

10 ***

11 Miscellaneous

12 [Todd P. Kriner, Esquire, Board Counsel, noted items
13 17 through 20 for the Board's perusal.]

14 ***

15 Adjournment

16 CHAIRMAN PARIS:

17 Motion to adjourn this meeting.

18 DR. WEBER:

19 I'd like to make a motion.

20 DR. GREENBERG:

21 I second that motion.

22 CHAIRMAN PARIS:

23 The meeting is adjourned.

24 ***

25 [There being no further business, the State Board of

1 Podiatry Meeting adjourned at 11:24 a.m.]

2

3

4

CERTIFICATE

5

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

11

12

13



14

Derek Richmond,

15

Minute Clerk

16

Sargent's Court Reporting

17

Service, Inc.

18

19

20

21

22

23

24

25

26

STATE BOARD OF PODIATRY
REFERENCE INDEX

June 28, 2023

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

TIME	AGENDA
10:00	Executive Session
10:30	Return to Open Session
10:33	Official Call to Order
10:33	Introduction of Board Members/Attendees
10:35	Approval of Minutes
10:35	Report of Prosecutors
10:40	Report of Board Counsel
11:04	Report of Board Chair
11:06	Report of Acting Commissioner
11:07	Report of Board Counsel (cont.)
11:21	Report of Board Administrator
11:22	For the Board's Information/Discussion
11:23	Miscellaneous
11:24	Adjournment