Maryland State Board of Podiatric Medical Examiners

Jurisprudence and Ethics Examination Lecture

Dale Carnegie® Training

Purpose

- To Familiarize the Licensee With State Law
- To Understand the Laws
- To Define the Licensee's Responsibilities

The State Board

- Created and Required by State Law
- Financially Self Supported by Licensing Fees
  - Pays for Staff, supplies, rent, et cetera
- Composed of **5 D.P.M.'s** and **2 Consumer Members**
  - Appointed by the Governor
- Term
  - 4 Years
  - Maximum two consecutive terms

Functions of The Board

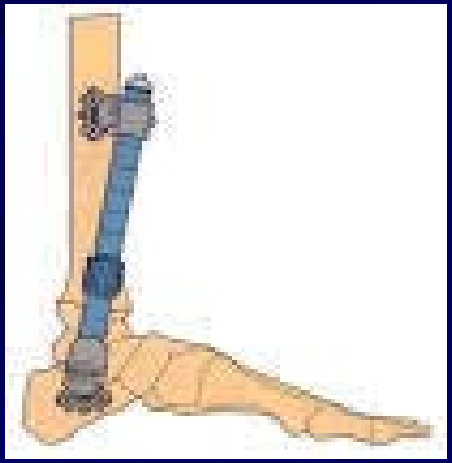
- Legislative
- Educational
- Disciplinary
- Licensing

Podiatry Practice Act

- **"Practice Podiatry"** means to diagnose or surgically, medically, or mechanically treat the human foot or ankle, the anatomical structures that attach to the human foot, or the soft tissue below the mid-calf

Podiatry Practice Act

- Does **not** include administration of an anesthetic other than local anesthesia



Ankle Surgery

- May be performed in a licensed hospital or Ambulatory Surgery Center (ASC)
  - If you are performing ankle surgery in an ASC, you **must have hospital credentials** to perform this same surgery in that setting
  - May **NOT** be performed in an office setting

Soft Tissue Surgery in the Leg

- Current Maryland law permits a practitioner to perform soft tissue procedures below the mid-calf.
- The law does **not** allow osseous surgery above the ankle.

Eligibility for full licensure in Maryland

- ✓ Graduate of Accredited Podiatry School
- ✓ PM Lexis and State Jurisprudence exams
- ✓ Satisfactory completion of at least one year of approved post graduate residency training
- ✓ Cardio Pulmonary Resuscitation (CPR) certification [Basic Life Support for Healthcare Professionals]
- ✓ Must include hands on skills set.

Limited Licensure

- This is issued during residency training
- Issued for renewable one year terms
- Must be renewed annually
- May only practice under the supervision of a licensed podiatrist or physician in an approved residency program and setting

Licensee Responsibilities

- Current practice mailing address and email address must be registered with the Board
  - Changes of address must be submitted **within 30 days**
  - Change of email address must be submitted immediately

- License expires on DECEMBER 31st of each odd year (i.e. 2013, 2015, 2017, 2019)

- **Annual Payment** of Licensing Fee is **Mandatory**
  - Although the license is issued biennially, the license fee is billed and must be paid yearly
  - Non-compliance with billing due dates may lead to disciplinary actions against the license and a late fee assessment.

Licensee Responsibilities cont'd

- CME Credits - 50 credits are required every 2 years. {including up to 3 hours of category A credits for CPR certification} – CPR certification must be maintained on a non lapse basis.
  - Random audits are conducted to ensure compliance
  - **CME's are due by December 1st**. There may be no exceptions as 30 days are required to review these educational requirements prior to issuing the license
  - Penalty fees are assessed for late submission

Cardio Pulmonary Resuscitation (CPR) certification (Basic Life Support) required

- CPR certification (Basic Life Support) is required at initial licensure and all license renewals
- CPR certification courses must be Board approved
- CPR certification **must** include the hands on skill set.
- CPR certification and/or recertification courses are approved for a maximum of 3 CME category A credits
- Evidence of CPR certification must be provided for audit compliance upon request of the Board

Documentation and Record Keeping

- Patient Records
- Formats and Guidelines

Format of Records

- S-O-A-P Notes
  - (commonly used yet not the only acceptable format)
- Dictated vs. Written notes
  - (either is acceptable)
- Be as thorough as possible, If it isn't in the record, it wasn't done!
- All notes must be signed and dated
- Use permanent black ink
- Legible
- Changing/correction/adding information to medical records
  - single line through the entry then initial and date the change

Patient Consent

- Performance of procedures must be preceded by a thorough and appropriate **Informed Consent**
- Documentation of Informed Consent must be maintained in the patient's chart

Patient Records

- Copies must be made available to the patient within a reasonable amount of time (not more than **21 working days** from request) and for a reasonable cost
- Patients must be advised as to the location of their records
- Patient confidentiality must be maintained at all times

Medical records – cont'd

- Establishing good habits early in your practice will really go a long way in protecting you in many situations (i.e. request for medical records from a patient, attorney, insurance company, HMO and/or State Board)

- Detailed and consistent style of documentation will make you a more thorough clinician. You should feel comfortable sharing your notes with colleagues and referring physicians

Advertising Guidelines

- Must identify the name of the podiatrist in all advertisements
- Must state "Podiatrist", "Podiatry" or D.P.M. in advertisements
- These same guidelines apply to office stationery, brochures, and business cards
- Examples
  - Dr. John Smith, Podiatrist – **Acceptable**
  - John Smith, D.P.M. - **Acceptable**
  - Dr. John Smith, Foot and Ankle Specialist – **Not Acceptable**

Advertising cont'd.

- Certifications/Organizations recognized by the Board are:
  - Diplomate, American Board of Podiatric Surgery (DABPS)
  - Diplomate, American Board of Podiatric Orthopedics and Primary Podiatric Medicine (DABPOPPM)
  - Fellow, American College of Foot and Ankle Surgeons (FACFAS)
- Advertising of certification credentials must comply with the advertising guidelines of the certifying Board.

Corporations

- Board and MPMA approval **required** for some corporate entities
  - Professional Corporations → i.e. Podiatry Partners, PC
  - Professional Association → i.e. Podiatry Partners, PA
- Board approval **not** required if surname is used
  - i.e. John Smith, D.P.M., PC
  - i.e. John Smith, D.P.M., PA
- Board approval **not** required if company structure is a Limited Liability Company (LLC)
  - i.e. Greenwood Foot and Ankle, LLC

Corporations cont'd

- Corporate name may **not** infer superiority
  - The Best Podiatry Center
  - Superior Podiatry Center

Trade Names

- Do **not** require Board approval
- Must comply with advertising regulations

Complaints

- The Board must act and follow specific procedures
- Assures fairness to the public and the licensee

Complaints

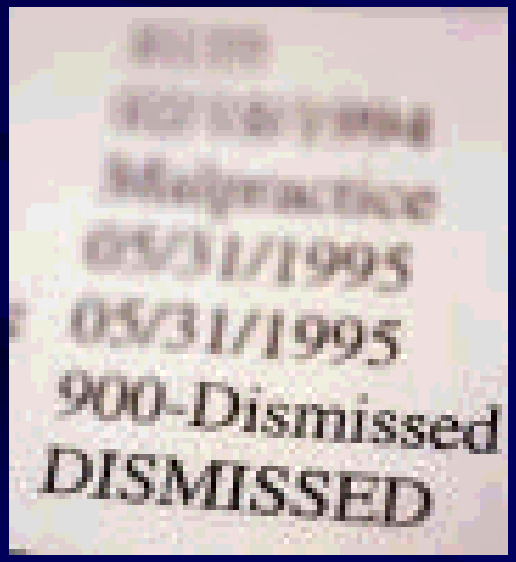
- Originate from many sources
  - Patients
  - Professionals/Colleagues
  - Insurance Companies
  - Health Claims Arbitration (HCA) : "3 in 5 rule" (3 HCA reported claims in a 5 year period automatically triggers a practice audit)
- The Board does **NOT** mediate fee disputes

Anatomy of a Complaint

- All complaints must be in writing
  - No anonymous complaints
  - No telephone complaints
- Complainant must use and file an official complaint form

Anatomy of a Complaint
Minor Issue

- Complaint may be dismissed if the issue is deemed very minor or frivolous



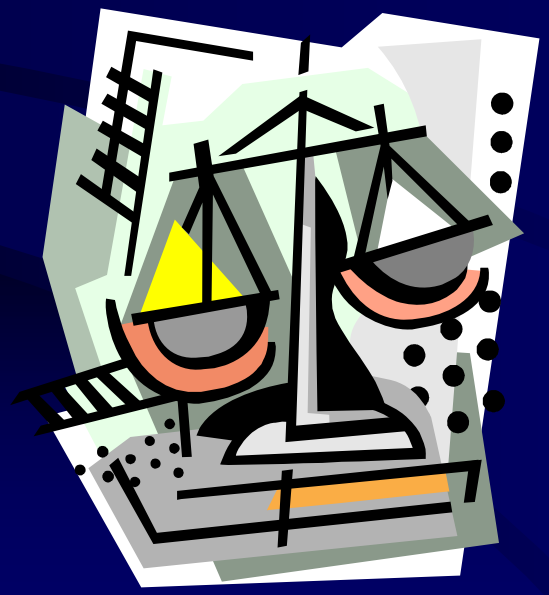
Minor Problems

- Informal Educational Resolution
  - Letter of Dismissal
  - Education Letter
  - Letter of Admonishment
  - Letter of Corrective Action

These Informal Resolutions are CONFIDENTIAL

Serious Problem

- Cease and Desist Agreement or Order
- Pre-charge Consent Order



Very Serious Problem

- Formal Charges May be Pressed
  - Reserved for the most severe actions

Case Resolution Conference (CRC)

- Meeting to attempt to reach an agreement after charges have been filed with the Office of the Attorney General (OAG)
- May have an attorney present
- May result in a Public Consent Order
- If no agreement is reached, the case goes to a formal hearing in front of either, the State Board or the Office of Administrative Hearings (OAH)

Board Sanctions

- **Reprimand** – Outcome of pre-charges, CRC or Hearing
- **Probation** – Outcome of a CRC or Formal Hearing
  - Re-education through specific coursework, or specific CMEs.
  - Monetary Fine – Maximum $50,000 (All Fines collected **DO NOT** go to the Podiatric Board, rather are directed into the State of Maryland General Fund)
- **Summary Suspension** – Imminent danger to safety and welfare of patients – Show Cause Hearing
- **Suspend a License** – Formal Hearing Process for Violation of Podiatry Act
- **Revoke a License** – Formal Hearing Process

Licensee

- Innocent until proven guilty
- Can continue to practice during the investigation of the case
- No sanctions may take place while the case is pending
- Strictly **Confidential** until a Consent or Final Order is issued
- May not surrender a license during an investigation

Public Disciplinary Orders

- Final Public Orders may be appealed to the Judicial system, and NOT to the Board.
- All Consent and Final Orders are reported to the Healthcare Integrity and Protection Data Bank.
- All Consent and Final Orders are also sent to the Federation of Podiatric Medical Boards; another national disciplinary database.

HIPDB

- The Healthcare Integrity and Protection Data Bank (HIPDB) is an alert or flagging system intended to facilitate a comprehensive review of the Professional credentials of healthcare practitioners, providers and suppliers.

- Public disciplinary queries are accessible to State licensing boards, hospitals, and other authorized healthcare entities (including health maintenance organizations) that are registered with the Data Banks.

- Information reported to the Data Banks is considered confidential and shall not be disclosed (other than to the physician or practitioner involved) except with respect to professional review activity and in furtherance of the quality of healthcare.

Fraud and Abuse

- One of the most serious charges!

Examples of Fraud and Abuse

- Billing for a procedure not done
- Billing a patient not seen
- Billing a more complicated procedure than actually performed
- Billing for a higher level of service than actually performed
- Overutilization

Fraud and Abuse cont'd
Upcoding

Examples:

- Trimming a nail border and submitting for an avulsion
- Submitting a higher level visit than actually performed
  - (Billing a level 4 E&M when only a level 3 service was actually performed)
- Submitting a CPT code for the surgical treatment of a bunion with an osteotomy when an osteotomy was not actually performed

Fraud and Abuse cont'd

Fragmentation

- Breaking down a procedure into its components for the purpose of generating a higher fee
  - i.e. Billing separately for components of the hammertoe procedure such as:

1) Tenotomy
2) Capsulotomy
3) Arthroplasty

Fraud and Abuse cont'd
Overutilization

- Performing an excessive number of injections
- Taking an excessive number of x-rays
- Performing excessive surgeries

Global Periods

- Surgical procedures have time periods allotted for postoperative care
- All related services within that time frame are included in the surgical fee
- You **CAN NOT** charge for follow up visits within the global period for any services related to the procedure(s)
- General Guidelines:
  - Major: 90 days
  - Minor: 10 days
- Information is readily available and published by CMS (Medicare)

Tips On Avoiding Complaints

- Be Sympathetic, Empathetic and Compassionate
- Listen and Communicate
- Don’t let your pride get in the way
- Be honest, compromise when indicated
- Be the “Good Podiatrist”

Tips On Avoiding Complaints

- Network with your local colleagues
- Be modern in your thinking and practice
- Unsure about something, **ask <u>before</u>** not after the fact. The Board welcomes your inquiries
- Join professional organizations (APMA, MPMA)
- Be patient with your practice
- Avoid added financial strains

Ethics

- It is the duty of a podiatrist to place the patient's welfare and rights above all other considerations.

Impairment

- Impairment to sound clinical practice may include:
  - Physical
  - Psychological
  - Substance Abuse

- A podiatrist **may** confidentially self-refer to a rehabilitation facility independent of the Board

Competence

- Perform only those procedures for which you were trained
- Obtain post graduate and post residency training for new skills
- Do **NOT** misrepresent your training, experience, or ability

Communication

- Be honest and truthful with your patients
- Inform your patient, do **not** surprise them
- Make clinical decisions based upon what is best for the patient and not your reimbursement
- Treat everyone equally, without regard to payment
- Informed Consent should be thorough
- Provide the patient with realistic expectations
- Face complications head on and communicate the issues at hand
- Do **not** practice "avoidance" medicine

Providing Services

- In the best interest of the patient
- Compassion, Respect, Dignity, Privacy
- Utilizing Conservative Care
- Appropriate Diagnostic Testing and Consultation

Decision for Surgery

- Many Factors
  - Economic
  - Social
  - Emotional
  - Physical

Patient Consent

- Performance of procedures must be preceded by a thorough and appropriate **Informed Consent**
- Documentation of Informed Consent must be maintained in the patient's chart

Commercial Relationships

- Treatment should be independent of any financial or other relationships
- Stark Laws – **Avoid** self referral issues
- Disclose ownership in any referring/testing situations

Financial Incentives

AVOID

- Fee Splitting
- Commissions
- Gifts
- Bonuses
- Paying for Referrals

OUR BOARD MEMBERS

Podiatrists (5)

Phillip M. Cohen, D.P.M.
Jay S. LeBow, D.P.M.
Craig Friedman, D.P.M.
Zachary Chattler, D.P.M.
Todd Harrison, D.P.M.

Consumer Members (2)

Barbara Crosby, RN
Jay H. Boyar, Eds

Contact Information and Staff

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Staff:

Eva H. Schwartz, Executive Director
Sheri Anderson, Administrative Officer
Elizabeth Amspacher, Licensing Coordinator
Anthony DeFranco, AAG, Board Counsel

We welcome your questions and concerns

WELCOME TO MARYLAND!!!

The State Board of Podiatric Medical Examiners wishes you a successful career in our state. Please call on us with your questions.