



TOE THE LINE

Volume 25, Issue 1

Spring 2012

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PODIATRY ONLINE

The Maryland Board of Podiatric Medical Examiners has a new website.

<http://www.dhmh.maryland.gov/mbpme>

The old web address (www.mbpme.org) is still linked to direct you to the new website as well.

BOARD MEMBER VACANCY ANNOUNCED

Steve Chatlin, DPM, Vice-President of the Board, decided for personal reasons not to return to serve the Board for a second term. The Board recognizes his excellent and most dedicated service to the citizens of Maryland, his expertise and hard work through his four years of service. Steve, you shall be missed!!

ADVERTISING OFF LABEL USE OF LASERS FOR TREATING TOENAIL FUNGUS

Pursuant to the Board's Regulations, advertisements may not include statements containing misrepresentations of facts that are likely to mislead or deceive because in context the statement makes only partial disclosure of relevant facts; and likely to create false or unjustified expectations of favorable results. Code of Maryland Regulations (COMAR) 10.40.06.03. This applies to devices not FDA approved or cleared for the treatment of toenail fungus, and must contain a statement indicating that the device has not received FDA approval or clearance.

2012-2013 RENEWAL RESULTS

The 2012-2013 renewal period is completed for podiatrists in the state of Maryland. 412 Active licensees out of the original 435 have successfully renewed. The remaining 23 Licenses where changed as follows: 8 were converted from Active to Inactive, 3 retired, 9 decided not to renew, and 3 did not respond

The Board sent Cease and Desist of practice of podiatry Orders effective February 1, 2012 to the podiatrists that have not been reachable or responsive. Also, out of the 123 Inactive licensees 110 renewed. There were 10 podiatrists that decided not to renew their Maryland Inactive status and 3 that were unresponsive.

Taxes

Effective July 1, 2003 all health occupation licensing boards in the State of Maryland are prohibited from renewing a license to practice a health care profession before receiving verification from the Office of the Comptroller that a renewal applicant has paid or arranged to pay all Maryland taxes and unemployment insurance contributions. (Maryland Code Annotated, Health Occupations Article §1-213).

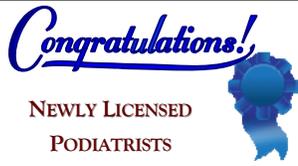
Payment of all tax obligations (personal and business) must be satisfactorily verified by the Office of the Comptroller prior to the Board's issuance of a license. The Board can not release tax holds. The release of tax holds can only be accomplished by contacting the Office of the Comptroller at 410-974-2432 to resolve tax issues and/or make payment arrangements.

Child Support Arrears

Family Law Article, § 10-119.3, Maryland Annotated Code, provides that upon notification by the Department that an individual obligor is in arrears on his or her child support obligation, the Licensing Authority shall suspend the Obligor's license or deny the license of an individual who is an applicant for a license.

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NEWLY LICENSED
PODIATRISTS

- Desiree Reyes, D.P.M.
- Aliza Matthews, D.P.M.
- Jean Kassis, D.P.M.
- Kelly Malinoski, D.P.M.*
- Eleanor Wilson, D.P.M.
- Eric Harmelin, D.P.M.
- Travis Dwyer, D.P.M.
- Queen Mbanuzue, D.P.M.
- Angela Savage, D.P.M.
- Megha Patel D.P.M.
- Khristine Sparta, D.P.M.
- Nga Ho, D.P.M.
- Ashleigh Korves, D.P.M.
- Terry Marie Tan, D.P.M.
- Christopher Walters, D.P.M.*
- Kevin Thomas, D.P.M.
- Gordon McCrary, D.P.M.
- Matthew Testani, D.P.M.
- Kevin Curlis, D.P.M.
- Benjamin Kleinman, D.P.M.
- Stephen Bui, D.P.M.

* No longer practicing in Maryland

BOARD INQUIRIES

Podiatric Practice Business Name

Licensees are reminded that according to the Board's COMAR 10.40.06.03(C)(1-3,6);

An advertisement may not include statements:

- (1) Containing misrepresentation of facts;
- (2) Likely to mislead or deceive because in context the statement makes only a partial disclosure of relevant facts;
- (3) Likely to create false or unjustified expectations of favorable results;
- (6) Containing representations or implications that in reasonable probability can be expected to cause an ordinarily prudent person to misunderstand or be deceived.

Advertising

The Board received an advertising inquiry for an off label use of a product that is not cleared or approved by the FDA. The Board stated that any advertising for an off label use of a product that is not cleared or approved by the FDA is not permissible, unless the Podiatrist advertises that he/she performs laser surgery. *A disclaimer and consent from the patient is required if a product/procedure is used off label.*

Billing

The Board received an inquiry regarding whether or not a patient of a senior apartment complex was evaluated and treated in their wellness center instead of their individual apartment, would they be billed for an office visit or a home visit? The Board determined that visits to Senior Apartment Complex should

be billed as home visits.

Investigations

The Board received an inquiry regarding whether or not they can investigate a licensee in the absence of a written and signed complaint. The Board indicated that they can investigate any complaint that alleges there are grounds for action.

Charges for Medical Records

The Board reviewed the State of Maryland Law at Health-General Article 4-304(c)(3) which states "the fees may be changed and adjusted annually for inflation using the Consumer Price index on July 1 of each year. The statute does not designate an entity to compute the increases.

More information on the Consumer Price Index can be found at <http://www.bls.gov/bls/proghome.htm>

MedChi Fees: www.medchi.org/law-and-advocacy/law-advocacy-faqs

CPT Codes

The Board received an inquiry regarding whether or not there were different CPT codes for ulcerations. The Board indicated that the CPT Codes 11040 and 11041 were replaced as of January 2011 with CPT Codes 97597 and 97598. CPT Code 11042 is still in effect.

It was also inquired whether or not podiatrists can treat and receive reimbursement for ulcerations under Medicare. The Board stated that podiatrists are eligible to treat and receive reimbursement for ulcerations below mid-calf level.

Skin graft-CPT code 15275 is within the scope of practice and should be reimbursable by Medicare.

#1. The definition of CPT Code 15275 - Application of skin substitute graft to face, scalp, eyelids, mouth, neck, ears, orbits, genitalia, hands, feet, and/or multiple digits, total wound surface area up to 100 sq. cm; first 25 sq. cm or less wound surface area.

#2. The Medicare representative was incorrect by saying a "podiatrist" can not apply the graft and can not use this code.

#3 There is a group of new wound care codes that were reviewed and provided to the APMA for the national lectures on wound care.

| Skin Substitute Grafts Coding by Site and Size | | |
|---|------------------------------|------------------------------|
| | LEGS | FEET |
| Total wound surface area by anatomical grouping less than 100 sq. cm | | |
| 1-25 sq. cm | 15271 | 15275 |
| 26-50 sq. cm | add on 15272 x 1 unit | add on 15276 x 1 unit |
| 51-75 sq. cm | add on 15272 x 2 units | add on 15276 x 2 units |
| 76-99sq. cm | add on 15272 x 3 units | add on 15276 x 3 units |
| Total wound surface area by anatomical grouping greater than or equal to 100 sq. cm | | |
| 100 sq. cm | 15273 | 15277 |
| 101-200sq. cm | add on 15274 x 1 unit | add on 15278 x 1 unit |
| 201-300sq. cm | add on 15274 x 2 units | add on 15278 x 2 units |
| 301-400sq. cm | add on 15274 x 3 units | add on 15278 x 3 units |

LEGISLATION

SB-308- Environment- Radiation Sources- Podiatry Radiation Machines

Requiring a State inspector to provide a podiatry office or facility a specified written notice in accordance with specified requirements under specified circumstances; prohibiting the Department of the Environment from imposing a fine on a podiatry office or facility for a specified violation under specified circumstances; etc.

Senate Action: Unfavorable Report by Education Health and Environmental Affairs

House Action: No Action

BRFA Cut

The Board reviewed the proposed budget cut and the rebuttal letter that The Health Occupation Boards' Fiscal Liaison presented on behalf of the Board of Podiatry at the House and Senate Budget Hearings. The letter stated that our budget can not afford such a cut and transfer of the cut into the General Fund, due to the loss of active Licensees this past renewal period, the start of two positions within the Board office that were previously frozen, and the previous revenue collections projections not being met.

The BRFA Cut failed and the transfer of funds did not occur from our budget.

HB-496-Child Abuse and Neglect-Failure to Report-Penalties

Establishing that specified persons who are required to provide notice or make a report of suspected child abuse or neglect, while acting in their professional capacities, may not knowingly fail to give the notice or make the report; establishing that any other person, under specified circumstances, who has reason to believe a child has been subjected to child abuse or neglect is required to make a specified report; establishing a misdemeanor for knowingly failing to report child abuse or neglect; and establishing penalties.

House Action: Unfavorable Report by Judiciary

Senate: No Action

HB-323 Health Occupations-Licensed Podiatrists-Scope of Practice

Altering the definition of "practice podiatry" to include the surgical treatment of acute ankle fracture in the scope of practice of licensed podiatrists.

House Action: Unfavorable Re-

port by Health and Government Operations. Withdrawn.

SB-603-Health Care Practitioners - Licensed Dentists, Physicians, and Podiatrists - Personally Preparing and Dispensing Prescription Drugs and Devices - Effective 7/1/2013.

Requiring licensed dentists, physicians, and podiatrists to comply with specified dispensing, labeling, inspection, packaging, recall procedure, record keeping, purchase, verification, reporting, and continuing education requirements as a condition of being allowed to personally prepare and dispense prescription drugs or devices; requiring the Division of Drug Control to enter and inspect the offices of specified health practitioners during specified time periods; etc.

The enrolled bill passed with amendments requiring that the Secretary of DHMH consult with each individual board when approving continuing education credits relating to preparing and dispensing of prescription drugs. Details about requiring a permit to dispense drugs but not devices and information about the requirements tied to a dispensing permit can be viewed at www.mlis.state.md.us

MARYLAND DIVISION OF DRUG CONTROL PERMITS

Under COMAR 10.19.03.01-.13, Criminal Law Article 5-301-310 and Title 5 generally; Health General Article, 21-220 it is required every person who manufactures, distributes, prescribes or dispenses any controlled dangerous substances within the State to obtain a registration (Permit) to be issued by the Department of Health and Mental Hygiene, Division of Drug Control, **every TWO years.**

Under COMAR as stated above it is required that a separate registration (Permit) be obtained for each principal place of business that manufactures, distributes, prescribes or dispenses controlled dangerous substances. Please note that you must obtain both DEA registration number specific for a Maryland practice location along with a Maryland CDS permit. If you have more than one location, you must have a Maryland Drug Control Permit for each location and each practitioner at that location.

Specific inquiries regarding the Maryland CDS Permit should be directed to the Division of Drug Control at 410-764-2890. For DEA inquiries, call (410) 244-3591, or (877)330-6670.

PODIATRIST RESIDENTS: LIMITED LICENSE REQUIRED

A Limited License is required of all podiatric residents. A podiatrist that holds a full Active License and pursues additional training in a residency program is required to hold a Limited License in addition to other licensure options. Podiatric residents rotating in your offices or ASC as part of

their residency program should provide you a copy of their Limited License valid for the dates of the rotation. **A Limited License is valid only for supervised training at an approved location as part of a residency program;** this does not authorize the practice of podiatry outside of the residency program.

Moonlighting, taking call, or providing any type of weekend, holiday, or overnight coverage on a Limited License outside an approved residency program or an approved satellite facility is strictly prohibited. Non-compliance with these licensure requirements may lead to disciplinary action by the Board.

SCOPE OF PRACTICE—BOARD DETERMINATIONS

Podiatric Medical Assistants

There is no statutory scope of practice for podiatric assistants; therefore the appropriate training and delegation of duties and functions is the responsibility of the podiatrist, and under the license of the podiatrist.

Conscious Sedation

The Board reviewed the inquiry about whether it is within the scope of practice for a podiatrist to perform conscious sedation. It was determined that this procedure is not within the scope of practice.

Advertising Cutera Nail Fungus Laser

The Board reviewed the inquiry regarding the allowance of advertising of the cutera nail fungus laser. The Board's review showed that the cutera nail fungus laser is "FDA cleared." Therefore, a letter was submitted to the D.P.M. to substitute the word verbiage from "FDA approved" laser to "FDA cleared" laser.

Pneumatic Compression Device

It is within the scope of practice to prescribe a pneumatic compression device for the treatment of local manifestations of secondary lymphedema or chronic venous Insufficiency with venous stasis ulcers.

Podiatrists prescribing low back support devices

The Board determined that it is not within the scope of practice of a podiatrist in Maryland to prescribe low back support devices.

Advertising "Total Foot and Ankle Care"

The Board has determined that advertising in this manner is not misleading even though the current scope of practice limits some acute ankle conditions.

Foot Amputations

A Maryland licensed podiatrist may perform forefoot amputations as well as ankle joint amputations as a surgical procedure within the scope of podiatric practice.

Surgical Procedures within scope of practice

It was determined by the Board that the following surgical procedures are included within a podiatrists scope of practice:

- Tibia-talar-calcaneal fusion or Tibia-calcaneal fusion with intramedullary locking nail
- Removal of locking intramedullary nail screw from the tibia
- Repair of delayed or nonunion of lateral malleolus/fibula
- Lateral malleolus/fibular osteotomy
- Syndesmotic fusion of the tibia and fibula
- Osteochondral defect/lesion repair of the talus, fibula, and tibia
- Gastrocnemius recession below the mid calf
- Medial malleolar osteotomy
- Repair of delayed or non union of medial malleolar

osteotomy

- Supramalleolar Osteotomy at level of the ankle complex

Rebuilder Medical Inc

The Board has determined that a podiatrist can prescribe and dispense a Rebuilder to a patient as long as they have a DME license. After the trial periods, the same podiatrist can complete the CMN.

Working under a Physician

The Board has determined that it is within the scope of practice for a Maryland podiatrist to perform duties delegated to them by a licensed physician as stated in the Maryland Physicians Act.

Administering Sculptra injections into the foot

The Board stated that Sculptra injections, although FDA cleared, are still considered off-label use when used in the foot, ankle, and lower-leg to mid-calf. A podiatrist may not advertise off-label use of products, therefore must obtain a Consent Form from the patient for the use of off-labeled products as well.

Treatment of a Family member

The Board decided that it is not unethical to treat a family member, however medical records must be maintained as with any other patient. It is a personal decision whether a podiatrist bills the family member or not, but some third party payers may prohibit payment for the treatment of family members.

Podiatric Medical Assistants (PMA) and Laser Treatments

The Board stated there is no definition for a podiatric medical assistant, therefore a PMA may operate lasers under the direct supervision of a podiatrist. The training of the PMA must be the same training that was acquired by the podiatrist to do so and evidence of this training may be requested from the Board. Training and delegation of duties for PMA's is the responsibility of the Podiatrist.

Endovascular Sclerotherapy

The Board states that treatment of the soft tissue below the mid-calf is within a podiatrist's scope of practice.

SB 870: Board of Physicians- Athletic Trainer (AT) Advisory Committee

The Board of Podiatry requested MPMA to introduce amendments to this bill: be part of the advisory committee, exclude practice of podiatry from athletic trainers' scope of practice and be able to supervise athletic trainers. Statutory changes must be made by the Board of Physicians and legislators for such to occur. Amended to include Podiatry in the list of exempted practice area for AT's scope of practice.

Change of Address

In accordance with §16-309 of the Annotated Code, "Each licensee shall notify the Board of any change of address". Board policy dictates that all requests for change of address be submitted to the Board in writing and include the signature of the licensee. A \$300.00 fine for non-compliance will be issued to podiatrists who fail to maintain a correct address with the Board.



ADVERTISING REGULATIONS AND REMINDERS

The advertising of podiatric services in Maryland must comply with The Code of Maryland Regulations 10.40.06. Electronic means of advertising such as television, radio, web sites, internet, and email as well as stationery, cards, signs, billboards, newspapers, magazines, flyers, directories, or any documents that may be circulated to the general public must comply with advertising regulations. Many of the advertising complaints reviewed by the Board may be avoided by thoroughly reviewing your advertising and correcting any of the following pitfalls:

- ◆ All advertising must state that the practitioner is a podiatrist. The title “doctor” or any abbreviation cannot be used without the qualification “podiatrist”, “podiatric physician”, “Doctor of Podiatric Medicine”, or other appropriate designation.

- ◆ Directory listings must be placed in sections that appropriately label and identify podiatry. Podiatrists may not place their listing under headings for physi-

cians and surgeons where podiatry is not identified.

- ◆ The Board has endorsed the American Podiatric Medical Association (APMA) guidelines for advertising and as such only recognizes certifications from the American Board of Podiatric Surgery (ABPS) and the American Board of Podiatric Orthopedics and Primary Podiatric Medicine (ABPOPPM).

- ◆ When advertising Board certification status, the name of the certifying Board must be clearly stated. Words such as “Board Certified” or “Certified” may not be used alone unless an asterisk (*) directs the reader’s attention to the name of the certifying Board. The advertising of “Board Qualified” status may not be used in anyway.

- ◆ If two or more podiatrists are included in a single advertisement, their certification statuses must be clearly designated.

- ◆ Members of the American

Board of Podiatric Surgery (ABPS) must comply with the ABPS advertising policies requiring that podiatrists designate their certification as follows; Diplomate, American Board of Podiatric Surgery, or Certified by the American Board of Podiatric Surgery. **Acronyms such as ABPS, ABAFS, DABPS, or DABAFS, are not** to be used in any advertisement.

- ◆ Diplomates of the American Board of Podiatric Orthopedics and Primary Podiatric Medicine (ABPOPPM) must adhere to the following guidelines when advertising status (only the following statements of Diplomate status are acceptable): Diplomate, American Board of Podiatric Orthopedics and Primary Podiatric Medicine, Board Certified, American Board of Podiatric Orthopedics and Primary Medicine, Certified American Board of Podiatric Orthopedics and Primary Podiatric Medicine. Note: The organization initials (ABPOPPM) may be substituted for the full name.

- ◆ Advertising may not infer superiority (e.g. Premier, Advanced, et cetera) or exclusivity (e.g. Only, First, et cetera).

- ◆ Board approval is not required for Trade names and the names of Limited Liability Companies (LLC) however these names still need to comply with the Board’s advertising regulations.

If you are uncertain of the correct advertising criteria, please contact the Board.

LANGUAGE TRANSLATION SERVICES

Today’s ever-diversifying patient populations have increased the demand for new technology that aids communication with limited-English speakers. Language Line® Over-the-Phone Interpretation Service may be an option to consider for improving access to quality healthcare for these patients and their families.

Additional information regarding telephone translation services is available by contacting Language Line® at www.language.com or 1-800-752-6096.



PUBLIC DISCIPLINARY ACTIONS

Larry Bernhard D.P.M.–

Order effective 2/9/2012

Summarily Suspended,
Indefinitely

Victor Henry D.P.M.–

Order effective 2/9/2012 Surrender of License with terms and conditions in lieu of disciplinary action.

Jeannine George-Richardson,

D.P.M.–

Order effective 12/9/2010,

One year suspension: 6 months stayed, 3 years Probation.



Special Notice

The Maryland Board of Podiatric Medical Examiners Newsletter is considered an official method of notification to podiatrists. **These Newsletters may be used in administrative hearings as proof of notification.** Please read them carefully and keep them for future reference.

MARYLAND BOARD OF PODIATRIC
MEDICAL EXAMINERS

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We are on the Web
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BOARD MEETING SCHEDULE

May 10, 2012
June 14, 2012
July 12, 2012
September 13, 2012
October 11, 2012
November 8, 2012
December 13, 2012

The Board of Podiatric Medical Examiners meets the second Thursday of each month at the Department of Health and Mental Hygiene, 4201 Patterson Avenue, Baltimore, MD 21215. The public is invited to the Open Session of the meeting which begins at 1:00 p.m. Please note that the Board does not schedule an August meeting. For further information or to place an item on the public agenda, please contact the Board office.

CPR REQUIRED FOR INITIAL LICENSURE AND ALL LICENSE RENEWALS

For the 2012-2013 licensure cycle and hence forth, Cardio Pulmonary Resuscitation (CPR) certification [Basic Life Support for Healthcare Professionals] is required for initial licensure and all license renewals. Evidence of CPR certification must be provided for all renewal applications. CPR certification and/or recertification courses are approved for a maximum of 3 CME Category A credits. Some entities of CPR certification courses for example are available from the following Board-approved organizations:

American Red Cross
www.redcross.org
1-800-REDCROSS

American Heart Association
www.americanheart.org
1-877-AHA-4CPR
1-877-242-4277

American Safety &
Health Institute
www.ashinstitute.org
1-800-246-5101

Ursus Lifesavers & Aquatics
www.411cpr.com
1-888-681-1950

To maintain a current CPR certification, the Board encourages all licensees that need to obtain CPR recertification to immediately contact one of the organizations listed above and schedule your training.

Please note that your license

expiring December 31, 2013 CAN NOT be renewed without current CPR certification.

It is the responsibility of the licensee to identify the availability of CPR certification/recertification training to meet licensure renewal requirements.

NOTICE

All CPR Certifications must be valid and concurrent with the period while the license is valid. The courses must be hands on specifically due to the new law changes that state you are to start with compressions, before starting with two quick breaths.

