



Massachusetts Podiatric Medical Society

6 Boston Rd, Suite 202, Chelmsford, MA 01824 | 978 256-0935 | office@masspodiatrists.org | www.masspodiatrists.org

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The mission of the Massachusetts Podiatric Medical Society is to facilitate and promote the interests, professionalism and recognition of its members; to support a high degree of foot health care; and to support the principles and goals of the American Podiatric Medical Association.

Ms. Nedy Jean-Francois, Esq., Executive Director
Massachusetts Board of Registration of Podiatry
1000 Washington Street
Boston, Massachusetts

Dear Ms. Jean-Francois:

On behalf of the over 300 podiatric physician members of the Massachusetts Podiatric Medical Society ("MPMS"), I am writing to submit comments in response to the Massachusetts Board of Registration of Podiatry's ("the Board's") recent listening session. The MPMS appreciates the Board's efforts to ensure that the regulation governing podiatric physicians remain current. Accordingly, the MPMS respectfully offers the following comments:

1. 249 CMR 2.01. The section titled "Purpose and Authority" states, in the last sentence, that "[a]ny violation of 249 CMR may be considered gross misconduct, misconduct, malpractice, misconduct involving moral turpitude and/or unprofessional conduct and will be sufficient grounds for revocation, suspension or cancellation of a certificate". On its face, this sentence is incongruous with the promulgated definitions of "unprofessional conduct" and "gross misconduct and deceit" in 249 CMR 5.03 & 5.04, respectively. While 249 CMR 2.01 seems to make every infraction a potential candidate for "unprofessional conduct" and "gross misconduct"; 249 CMR 5.03 & 5.04 provide an appropriate delineation of such conduct. Accordingly, the MPMS respectfully requests that the last sentence in 249 CMR 2.01 be stricken in its entirety. It is largely unnecessary in light of the existing definitions and procedures contained further in the regulations.
2. 249 CMR 3.01(1)(d). The existing regulations refer to an applicant receiving 75% or higher on the "criterion referenced parts of the National Board of Podiatric Medical Examination and the *PMLexis* examination": (emphasis added). The NBPMLE has renamed the examination the American Podiatric Medical Licensing Exam (APMLE). Accordingly, the 249 CMR 3.01(1)(d) should be amended to reflect the new terminology.
3. 249 CMR 3.01(4)(a)(3). The existing regulations, while correctly identifying the American Podiatric Medical Association within the definitions of 249 CMR 2.02, refer to the "American Podiatry Association". Accordingly, the regulations should be amended to reflect either the "APMA" or the "American Podiatric Medical Association".
4. 249 CMR 3.03. The existing regulations refer to the "Commissioner of Administration and Finance". As the nomenclature for this agency has changed to the "Secretary of the Executive Office of Administration and Finance", this regulation should be updated.



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5. 249 CMR 3.05. The existing regulations provide that "[o]nly CME credits which have specifically been approved by the Board may be used to meet this requirement. Approval by the APMA, Council of Podiatric Medical Education or any other organization shall not serve as a substitute for approval by the Board." The MPMS respectfully requests that the Board consider developing a list of organizations, including the APMA and the Council of Podiatric Medical Education, from which CME credits are automatically accepted. As most licensed podiatrists obtain the majority of their 30 CME credits via well-known professional societies such as APMA or the American College of Foot and Ankle Surgeons (ACFAS), the MPMS respectfully requests the Board delineate a list of specifically approved providers while reserving the Board's ability to approve programs offered by providers or organizations not otherwise listed within the regulations.
6. 249 CMR 3.05. The MPMS respectfully asks the Board to consider clarifying the pain medication / opioid requirement of Mass. Gen. Laws ch. 94C §18 within the regulations. This important education requirement may be completed over a two-year cycle for certain professions. As a result, the MPMS urges the Board to consider the same for podiatrists over a two year period. (i.e. two credit hours over the two year period to incentivize more comprehensive coursework).
7. 249 CMR 5.03. The definition of "unprofessional conduct" includes various infractions that fall within the meaning of such term. While the MPMS urges the Board to maintain many of these strong protections, the inclusion of subsection (i) "failure to repay student loans" should not be included in this section. There is little correlation between the failure to repay a student loan and a licensed podiatrist unqualified to practice podiatry. Further, if a licensed podiatrist, through financial factors outside his or her control, must declare bankruptcy, involving the accepted admission that he or she cannot pay her existing obligations, he or she would be deemed to have committed "unprofessional conduct". (Note: it is worth recognizing that, legally, "failure to repay student loans" could be triggered by a payment that occurs just one day after the stated deadline under a loan payment plan.). As a result, the MPMS, due to the lack of empirical evidence demonstrating this clause's protection of the general public, requests that this clause be stricken.
8. 249 CMR 6.03. The existing regulations, while correctly identifying the American Podiatric Medical Association within the definitions of 249 CMR 2.02, refer to the "American Podiatry Association". Accordingly, the regulations should be amended to reflect either the "APMA" or the "American Podiatric Medical Association".
9. 249 CMR 6.03. From a housekeeping perspective, in the 14 years since these regulations were last updated, the number of colleges of podiatric medicine



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has increased from seven to nine. Accordingly, this may require an update in said "certificates of approval" as referenced in this section.

Finally, during the Board's recent listening session, a comment was made that the Board could improve the transparency of its activities. Within that same comment, it was suggested that the Board seek input from other health care professionals. The MPMS, in its many years dealing with the Board and its parent organization, the Massachusetts Division of Professional Licensure, has found both entities to be exceptionally transparent. Whether through the posting of Board meetings up to a year in advance; adherence to the administrative practice act under Mass. Gen. Laws ch. 30A; publication of disciplinary actions; or, simply, engaging individual or entity requests for clarification, the Board has shown a demonstrated record of transparency both in process and decision-making. While the MPMS may not agree with each decision the Board undertakes, we never doubt the integrity of the Board's process or procedures.

To that end, the MPMS recognizes that the Board cannot be held responsible if individuals choose not to fill an available seat on the Board. Since the enactment of Mass. Gen. Laws ch. 13, §12A creating the Board, there has been a seat specifically reserved for "a registered physician who shall have had at least seven years of practice in medicine in this commonwealth". Despite the fact, this seat has remained unfilled for many years. Nevertheless, the Board continues to solicit and consider input from other health care provider groups, organizations and health insurance carriers. Moreover, the DPL has been quite active in working with its sister agencies – whether the Massachusetts Department of Public Health, the Massachusetts Office of Medicaid, the Massachusetts Division of Insurance or the Massachusetts Attorney General's Office – to work collaboratively on issues related to patient protection, provider quality and licensee discipline. To suggest that the Board does not seek input from other health care professionals ignores the clearly demonstrated facts to the contrary.

On behalf of the over 300 licensed podiatric physicians throughout the Commonwealth, I appreciate your consideration of this matter. If you have any questions or concerns, please do not hesitate to let me know.

Sincerely,

Dr. Susan Walsh, DPM