

## Minutes

The Oklahoma State Board of Podiatric Medical Examiners met on April 7, 2020, in accordance with the Open Meeting Act. The virtual amended meeting was held consistent with the amendments to the Open Meeting Act, 25 O.S.2011, § 301 *et seq.*, signed into law by Governor Stitt on Wednesday, March 18, 2020. See SB661, 2020 O.S.L. 3, § 3. Advance notice of this amended meeting was transmitted to the Oklahoma Secretary of State on March 24, 2020, and posted on the Board's website on April 3, 2020 at 10:40 a.m. in compliance with 25 O.S. § 311.9.

### Members participating were:

Frank Cooper, DPM, President, via videoconference  
Jody Rose, DPM, Vice-President, via videoconference  
Nathan Lashley, DPM, via teleconference  
Jeremy Mason, DPM, via videoconference

### Members absent were:

Kenneth Golda, DPM, Secretary-Treasurer  
Vacant Seat – Public Member

### Others present were:

Lyle Kelsey, Executive Director of the Oklahoma Medical Board  
Reji Varghese, Deputy Director of the Oklahoma Medical Board  
Barbara Smith, Executive Secretary for the Oklahoma Medical Board  
Lisa Cullen, Director of Licensing for the Oklahoma Medical Board  
Thomas Schneider, Assistant Attorney General and Board Advisor

Having noted a quorum, Dr. Cooper called the meeting to order at 12:15 p.m.

Following Board review, Dr. Lashley moved to accept the minutes of October 25, 2019, as written. Dr. Mason seconded the motion and the vote was unanimous in the affirmative.

Mr. Kelsey then reported on various laws regarding licensing for military personnel and/or their dependents. Mr. Kelsey provided handouts for the Board's review. Mr. Kelsey stated Handouts #1, #2 and #3 are existing laws, most of which are not pressing because podiatrists have not had any military applicants in the past several years. However, a review is in order because there may be some podiatric laws and/or rules that need to be amended due to these laws.

Handout #1 is related to Military Licensing – Automatic Extension of Time and it has been in effect since November 1, 2012. This law does not require a change in the Podiatric Medicine Practice Act. (*See Attachment #1*)

Handout #2 is related to Military Licensing – Expedited License Process and it has been in effect since November 1, 2018. This law asks for all boards and agencies to develop an expedited licensure process. This is not only for the active duty person, but their dependent spouse as well. One way to expedite the licensure process is to allow temporary licenses, which the podiatrists currently do not allow. Mr. Kelsey pointed out that there is no guarantee that a

temporary license will result in full licensure. He reiterated that there is no one that fits into this category yet for podiatrists, but this information is being provided proactively to the Board. *(See Attachment #2)*

Handout #3 is related to Military Licensing – Issue Temporary Licenses within 30 Days and has been in effect since November 1, 2019. This law relates to issuing a temporary license which, again, the podiatrists do not offer at this time. Mr. Kelsey said a change in the practice act is necessary to allow issuing temporary licenses. Following that, it would be necessary to promulgate rules. *(See Attachment #3)*

Handout #4 is current SB1891 which has not yet become law. It allows for issuance of an expedited temporary license and reciprocity, as well as a fee waiver. It also allows each agency to promulgate rules. Mr. Kelsey stated the podiatric practice act currently allows reciprocity, but there are no rules that set forth the process. *(See Attachment #4)*

Following Board discussion, Thomas Schneider recommended that the Board state it does not want to honor reciprocity and amend the rules to reflect that at this time. He further recommended that the Board allow a subcommittee to draft rules for the Board's review. Following additional discussion, Dr. Mason moved to delegate a subcommittee of less than a quorum of the membership of the Board to develop and draft proposed rules consistent with the Military Service Occupation, Education and Credentialing Act and then recommend those rules to the full podiatric board. Dr. Lashley seconded the motion and the vote was unanimous in the affirmative. After the vote, Mr. Schneider stated that SB1891 will most likely not pass into law.

Next, Thomas Schneider provided a draft of Medical Marijuana Prescribing Guidelines for Licensed Podiatrists. Mr. Schneider advised that the legislature passed law in 2019 allowing different medical boards to issue guidelines for recommending medical marijuana and that legislation was ultimately amended to add the podiatric board. Mr. Schneider advised he thoroughly reviewed the Podiatric Medicine Practice Act, American Podiatric Medical Association Code of Ethics and other documents. He subsequently drafted the proposed guidelines based upon current rules and laws, as well as the Oklahoma Health Department laws and rules regarding the Oklahoma Medical Marijuana Authority. Mr. Schneider stated he believes the most important aspect for the podiatric board to consider when reviewing the proposed guidelines, is that podiatrists will have the right to terminate a recommendation for medical marijuana to a patient who they believe no longer needs medical marijuana. Dr. Cooper thanked Thomas for his work in putting together the marijuana guidelines. Following Board discussion, the Board wished to remove "in-person" in the first sentence of the paragraph entitled "Patient Evaluation." Dr. Cooper moved to adopt the guidelines as presented with the revision of deleting "in-person" from the first line of the paragraph entitled "Patient Evaluation." Dr. Mason seconded the motion and the vote was unanimous in the affirmative. *(See Attachment #5)*

Dr. Cooper reported that the Oklahoma Podiatric Medical Association's annual meeting, which was set for the first weekend in May, has been cancelled due to the COVID-19 Pandemic. Many podiatrists earn CMEs by attending that meeting. Dr. Cooper stated the Board has the option of trying to "force" all licensees to obtain the required 60 hours of CME, or waive 15 hours of required CME for the current compliance period and allow licensees to make that up in the next two-year compliance period. Additionally, licensees are currently able to only obtain 10 CME hours on-line. Dr. Cooper believes that, in light of the pandemic, the Board should consider allowing concessions in that regard. Following much discussion, Dr. Cooper stated he

believes allowing licensed podiatrists to make up the 15 CME hours during the next two-year compliance period makes the most sense. Therefore, due to the COVID-19 Pandemic and the Board finding good cause, Dr. Lashley moved to waive 15 hours of CME for the current compliance period only, including certain concessions for obtaining in-state versus out-of-state CMEs, with an additional 15 CME hours due in the next compliance period. Dr. Cooper seconded the motion and the vote was unanimous in the affirmative.

Next, the board discussed rescheduling the podiatric board meeting for purposes of administering the licensure examination to qualified applicants. Lisa Cullen, Director of Licensing, advised there are currently 12-13 qualified applicants who are ready to take the exam. Reji Varghese, Deputy Director, advised he believes the jurisprudence (written) exam could be administered securely online and the applicants could "sit" for the oral portions virtually via Zoom. Dr. Cooper stated he believes the video connection like we were conducting for this meeting would work for the oral portion of the exam. Ms. Cullen will provide case studies to the board members beforehand for review. If the applicants have personal case studies they wish to present, an option to share their screen will allow the board members to review such documentation during the examination. A staff directive was issued to Barbara Smith, Executive Secretary, to set a virtual special meeting to review applications and administer the oral licensure examination on Saturday, May 2, 2020, commencing at 8:00 a.m. Ms. Smith will cancel the meeting previously set for the evening of Friday, May 1, 2020.

There being no new business, Dr. Lashley moved to adjourn the meeting. Dr. Cooper seconded the motion and the vote was unanimous in the affirmative. The time was 1:27 p.m.



OKLAHOMA  
State Courts Network

**Title 59. Professions and Occupations**

**Oklahoma Statutes Citationized**

**Title 59. Professions and Occupations**

**Chapter 58A - Military Service Occupation, Education and Credentialing Act**

**Section 4100.6 - Automatic Extension of Professional License or Certification**

Cite as: 59 O.S. § 4100.6 (OSCN 2020)

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A. Every agency, board or commission in this state with authority to issue and regulate professional licenses or certifications is authorized to provide for the automatic extension of such professional license or certification for active-duty military service members and to provide a reasonable period of time after military service to activate the license or certification for employment purposes.

B. Notwithstanding any other statutes to the contrary, any member of the Armed Forces of the United States on active duty who at the time of activation was:

1. A member in good standing with any administrative body of the state; and
2. Duly licensed or certified to engage in his or her profession or vocation in this state,

may be kept in good standing by the administrative body with which he or she is licensed or certified.

C. While a licensee or certificate holder is deployed on active duty as a member of the Armed Forces of the United States, the license or certificate referenced in subsection B of this section may be renewed without:

1. The payment of dues or fees; and
2. Obtaining continuing education credits when:
  - a. circumstances associated with military duty prevent obtaining training and a waiver request has been submitted to the appropriate administrative body,
  - b. the active-duty military member performs the licensed or certified occupation as part of his or her military duties as annotated in Defense Department Form 214 (DD 214), or
  - c. performing any other act typically required for the renewal of the license or certificate.

D. The license or certificate issued pursuant to the provisions of this section may be continued as long as the licensee or certificate holder is a member of the Armed Forces of the United States on active duty and for a period of at least one (1) year after discharge from active duty.

***Historical Data***

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Laws 2012, SB 1863, c. 226, § 7, eff. November 1, 2012.

***Citationizer® Summary of Documents Citing This Document***

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<i>Cite</i>	<i>Name Level</i>
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*None Found.*



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## Title 59. Professions and Occupations

### Oklahoma Statutes Citationized

#### Title 59. Professions and Occupations

##### Chapter 58A - Military Service Occupation, Education and Credentialing Act

##### Section 4100.5 - Procedure to Expedite Endorsement of Licenses or Certifications for Military

#### Spouses - Violation

Cite as: 59 O.S. § 4100.5 (OSCN 2020)

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A. Every agency, board or commission shall establish a procedure to expedite endorsement of licenses or certifications for military spouse applicants; provided, the military service member is on active duty within this state or claims permanent residency in this state for the six (6) months prior to assignment to active duty or during the period of active duty.

B. Notwithstanding any other law to the contrary, each agency, board or commission shall establish a procedure to expedite the issuance of a license, certification or permit to perform occupational or professional services regulated by each such board to a person:

1. Who is certified or licensed in another state to perform occupational or professional services in a state other than the State of Oklahoma;
2. Whose spouse is an active-duty member of the Armed Forces of the United States;
3. Whose spouse is subject to a military transfer to this state; and
4. Who left employment in another state to accompany the person's spouse to this state.

C. The procedures to expedite licensure or certification shall include:

1. Issuing the person a license, certificate or permit, if, in the opinion of the agency, board or commission the requirements for certification or licensure of the other state are substantially equivalent to those required by this state; or
2. Developing a method to authorize the person to perform occupational or professional services regulated by the agency, board or commission in this state by issuing the person a temporary permit, certificate or license for a limited period of time to allow the person to perform occupational or professional services while completing any specific requirements in this state that were not required in the state in which the person was licensed or certified.

D. Any state licensing or certification authority that fails to implement rules or laws for recognizing appropriate military training and experience for its occupational or professional licensing or certification process shall be deemed in violation of this act.

#### **Historical Data**

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Laws 2012, SB 1863, c. 226, § 6, eff. November 1, 2012; Amended by Laws 2018, SB 1141, c. 91, § 2, eff. November 1, 2018 ([superseded document available](#)).

**Citationizer<sup>®</sup> Summary of Documents Citing This Document**

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Title 59. Professions and Occupations

Oklahoma Statutes Citationized

Title 59. Professions and Occupations

Chapter 58A - Post-Military Service Occupation, Education and Credentialing Act

Section 4100.5 - Procedure to Expedite Endorsement of Licenses or Certifications for Military

Spouses

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Superseded

Superseded  
Effective: 11/01/2018

Superseded

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Cite as: 59 O.S. § 4100.5 (OSCN 2020)

A. Every agency, board or commission shall establish a procedure to expedite endorsement of licenses or certifications for military spouse applicants; provided, the military service member is on active duty within this state or claims permanent residency in this state for the six (6) months prior to assignment to active duty or during the period of active duty.

B. Notwithstanding any other law to the contrary, each board shall establish a procedure to expedite the issuance of a license, certification or permit to perform professional services regulated by each such board to a person:

1. Who is certified or licensed in another state to perform professional services in a state other than the State of Oklahoma;
2. Whose spouse is an active-duty member of the Armed Forces of the United States;
3. Whose spouse is subject to a military transfer to this state; and
4. Who left employment in another state to accompany the person's spouse to this state.

C. The procedures to expedite licensure or certification shall include:

1. Issuing the person a license, certificate or permit, if, in the opinion of the board, the requirements for certification or licensure of the other state are substantially equivalent to those required by this state; or
2. Developing a method to authorize the person to perform professional services regulated by the board in this state by issuing the person a temporary permit for a limited period of time to allow the person to perform professional services while completing any specific requirements in this state that were not required in the state in which the person was licensed or certified.

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Laws 2012, SB 1863, c. 226, § 6, eff. November 1, 2012.

**Citationizer<sup>®</sup> Summary of Documents Citing This Document**

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Cite      Name Level

None Found.

**Citationizer: Table of Authority**

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**Cite**            **Name Level**

*None Found.*

**Historical Data**



OKLAHOMA  
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## Title 59. Professions and Occupations

### Oklahoma Statutes Citationized

#### Title 59. Professions and Occupations

##### Chapter 58A - Military Service Occupation, Education and Credentialing Act

##### Section 4100.8 - Licensed or Certified Professional Military Personnel or Spouse Request for

##### Temporary, Reciprocal, or Comity License

Cite as: 59 O.S. § 4100.8 (OSCN 2020)

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A. Every active duty military personnel and their spouse who is licensed or certified in any occupation or profession in another state, upon receiving notice or orders for military transfer or honorable discharge to this state, may in advance of actual transfer or discharge submit a completed application to the appropriate licensing or credentialing agency in this state to request an expedited temporary, reciprocal or comity license or certification for their currently held valid license or certification from another state or territory of the United States so such person may upon entering this state be authorized to continue their licensed or certified occupation or profession without delay.

B. Every administrative body, state agency director or official with authority over any occupational or professional license or certification, and each of the respective examining and licensing boards, agencies and commissions in this state, shall, upon receipt of an active duty military application submitted as authorized in subsection A of this section, and presentation of satisfactory evidence of equivalent education, training and experience on such valid license or certification from another state, accept the valid license or certification and apply all its education, training and experience in the manner most favorable toward satisfying the qualifications for issuance of the requested license or certification in this state, and shall issue the requested Oklahoma license or certification within thirty (30) days provided the license or certification from the other state is found to be in good standing and reasonably equivalent to the requirements of this state.

C. The temporary, reciprocal or comity license or certification issued pursuant to this section shall be valid for the same period as authorized for full license or certification in this state, unless the person is notified by the credentialing authority that there is cause for a denial of the application or that certain documentation required by this state is lacking or unavailable. In such case, a temporary credential shall be issued to allow the person time to obtain the necessary requirement while continuing to be employed in his or her occupation or profession in this state. Any active duty military applicant receiving a notice of denial of full licensure or certification shall have the right to appeal the denial determination as provided in the Administrative Procedures Act or to obtain and submit the documentation required to complete full license or certificate requirements in this state.

D. Each credentialing authority in this state shall waive the application fee for active duty military personnel and their spouse and shall further waived the license or certificate fees for the first period of issuance for such temporary, reciprocal or comity license or certificate.

E. Any active duty military personnel who pursuant to any federal or military law, rule or regulation is not required to be licensed or credentialed while employed and performing their occupation or profession only on the premises of an assigned military base shall not be required to be licensed or credentialed in this state pursuant to the same law, rule or regulation.

F. Each agency shall promulgate rules to implement the provisions of this section and establish application forms as required.

***Historical Data***

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Laws 2019, SB 670, c. 257, § 2, eff. November 1, 2019.

***Citationizer® Summary of Documents Citing This Document***

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***Cite***      ***Name Level***

*None Found.*

***Citationizer: Table of Authority***

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***Cite***      ***Name Level***

*None Found.*

1 ENGROSSED SENATE  
2 BILL NO. 1891

By: Pugh, Bergstrom and Allen  
of the Senate

3 and

4 Wallace of the House  
5

6 An Act relating to occupations and professions;  
7 creating the Universal Occupational License  
8 Recognition Act; providing short title; providing for  
9 recognition of certain occupational licenses and  
10 certifications for certain persons; providing  
11 criteria for issuing certain licenses; recognizing  
12 disqualifying criminal history for certain licensure  
13 or certifications; allowing state-to-state reciprocal  
14 agreements; prohibiting licensure under certain  
15 conditions; permitting examination for licensure;  
16 requiring Oklahoma licensing laws and jurisdiction to  
17 apply to reciprocal licenses; excepting certain  
18 provisions for reciprocal licensure; stating  
19 fingerprint clearance and interstate compact  
20 requirements; defining term; recognizing certain out-  
21 of-state work experience for certain purpose;  
22 recognizing certain private certification for certain  
23 purpose; requiring periodic review of all licenses by  
24 regulating entity; stating minimum review period;  
stating criteria for review; providing for  
codification; and providing an effective date.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 4150 of Title 59, unless there  
22 is created a duplication in numbering, reads as follows:

23 This act shall be known and may be cited as the "Universal  
24 Occupational License Recognition Act".

1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 4150.1 of Title 59, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. Notwithstanding any other law, an occupational license or  
5 certificate shall be issued, in the discipline applied for and at  
6 the same practice level as determined by the regulating entity,  
7 pursuant to this act to a person who offers proof of physical  
8 residency in this state or is married to an active duty member of  
9 the armed forces of the United States and who is accompanying such  
10 member to an official permanent change of station to a military  
11 installation located in this state if all of the following apply:

12 1. The person is currently licensed or certified in at least  
13 one other state in the discipline applied for and at the same  
14 practice level as determined by the regulating entity and the  
15 license or certification is in good standing in all states in which  
16 the person holds a license or certification;

17 2. The person has been licensed or certified by another state  
18 for at least one (1) year;

19 3. When the person was licensed or certified by another state  
20 there were minimum education requirements and, if applicable, work  
21 experience and clinical supervision requirements in effect and the  
22 other state verifies that the person met those requirements in order  
23 to be licensed or certified in that state;

24

1 4. The person previously passed an examination required for the  
2 license or certification if required by the other state;

3 5. The person has not had a license or certificate revoked and  
4 has not voluntarily surrendered a license or certificate in any  
5 other state or country while under investigation for unprofessional  
6 conduct;

7 6. The person has not had discipline imposed by any other  
8 regulating entity. If another jurisdiction has taken disciplinary  
9 action against the person, the regulating entity shall determine if  
10 the cause for the action was corrected and the matter resolved. If  
11 the matter has not been resolved by that jurisdiction, the  
12 regulating entity may not issue or deny a license until the matter  
13 is resolved;

14 7. The person does not have a complaint, allegation or  
15 investigation pending before another regulating entity in another  
16 state or country that relates to unprofessional conduct. If an  
17 applicant has any complaints, allegations or investigations pending,  
18 the regulating entity in this state shall suspend the application  
19 process and may not issue or deny a license to the applicant until  
20 the complaint, allegation or investigation is resolved;

21 8. The person pays all applicable fees, not exceeding the cost  
22 of current in-state licensure fees; and

23 9. The person does not have a disqualifying criminal history as  
24 determined by the regulating entity and current state law.

1 B. This section does not prevent a regulating entity under this  
2 act from entering into a reciprocity agreement with another state or  
3 jurisdiction for persons married to active duty members of the armed  
4 forces of the United States, except that the agreement may not allow  
5 out-of-state licensees or certificate holders to obtain a license or  
6 certificate by reciprocity in this state if the applicant has not  
7 met standards that are substantially equivalent to or greater than  
8 the standards required in this state as determined by the regulating  
9 entity on a case-by-case basis.

10 C. A regulating entity that administers an examination on laws  
11 of this state as part of its license or certificate application  
12 requirement may require an applicant to take and pass an examination  
13 on the laws of this state.

14 D. A person who is licensed pursuant to this act is subject to  
15 the laws regulating the person's practice in this state and is  
16 subject to the regulating entity's jurisdiction.

17 E. This section does not apply to:

- 18 1. Requirements for a fingerprint clearance card; and
- 19 2. Criteria for a license, permit or certificate of eligibility  
20 that is established by an interstate compact.

21 F. For purposes of this act, the term "proof of physical  
22 residency" means the presentation of two separate forms of  
23 documentation showing the person has established and maintains a  
24 physical dwelling place or legal residency within this state. The

1 documentation may be issued by the state, a political subdivision or  
2 an agency of this state or governmental entity in the form of a  
3 utility service statement, tax return or statement, state or  
4 military identification card, driver license, active military orders  
5 or a private document such as a residential lease agreement or real  
6 estate document, or other documents acceptable to the regulating  
7 entity; provided, each document must bear the same person's name and  
8 physical address on its face.

9 SECTION 3. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 4150.2 of Title 59, unless there  
11 is created a duplication in numbering, reads as follows:

12 Recognition of out-of-state work experience.

13 Notwithstanding any other law, the regulating entity shall issue  
14 an occupational license or government certification to a person upon  
15 application based on work experience in another state, provided the  
16 person offers proof of physical residency in this state, if all the  
17 following apply:

18 1. The person worked in a state that does not use an  
19 occupational license or government certification to regulate a  
20 lawful occupation, but this state uses an occupational license or  
21 government certification to regulate a lawful occupation with a  
22 similar scope of practice, as determined by the regulating entity;

23 2. The person worked for at least one (1) year in the lawful  
24 occupation; and

1        3. The person satisfies paragraphs 6 through 9 of subsection A  
2 of Section 2 of this act.

3        SECTION 4.        NEW LAW        A new section of law to be codified  
4 in the Oklahoma Statutes as Section 4150.3 of Title 59, unless there  
5 is created a duplication in numbering, reads as follows:

6        Recognition of private certification in other states.

7        Notwithstanding any other law, the regulating entity shall issue  
8 an occupational license or government certification to a person upon  
9 application based on holding a private certification and work  
10 experience in another state, provided the person offers proof of  
11 physical residency in this state, if all the following apply:

12        1. The person holds a private certification and worked in a  
13 state that does not use an occupational license or government  
14 certification to regulate a lawful occupation, but this state uses  
15 an occupational license or government certification to regulate a  
16 lawful occupation with a similar scope of practice, as determined by  
17 the regulating entity;

18        2. The person worked at least one (1) year in the lawful  
19 occupation;

20        3. The person holds a current and valid private certification  
21 in the lawful occupation;

22        4. The private certification organization recognizes the person  
23 to be in good standing; and  
24

1        5. The person satisfies paragraphs 6 through 9 of subsection A  
2 of Section 2 of this act.

3        SECTION 5.        NEW LAW        A new section of law to be codified  
4 in the Oklahoma Statutes as Section 4150.4 of Title 59, unless there  
5 is created a duplication in numbering, reads as follows:

6        All state occupational or professional licenses shall be  
7 reviewed not less than once every four (4) years to determine if the  
8 license is necessary and if necessary, uses the least restrictive  
9 regulation to protect consumers from present, significant and  
10 substantiated harms that threaten public health and safety. Review  
11 of occupational or professional licenses shall be conducted by the  
12 regulating entity and shall answer the following questions:

13        1. Is there a compelling public interest that needs to be  
14 protected;

15        2. Is the least restrictive means that would sufficiently  
16 protect the public interest being used;

17        3. If occupational licensing is used, does the regulating  
18 entity in charge of such licensure have a controlling number of  
19 regulating entity members as market participants; and

20        4. Is there active supervision of the regulating entity's  
21 actions by the state.

22        SECTION 6. This act shall become effective November 1, 2020.  
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1 Passed the Senate the 11th day of March, 2020.

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\_\_\_\_\_  
Presiding Officer of the Senate

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5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,

6 2020.

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Presiding Officer of the House  
of Representatives

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## MEDICAL MARIJUANA PRESCRIBING GUIDELINES FOR LICENSED PODIATRISTS

The Oklahoma Board of Podiatric Medical Examiners adopts the following guidelines regarding the recommendation of medical marijuana by podiatric physicians in Oklahoma.

1. Any doctor of podiatric medicine who chooses to recommend medical marijuana must possess a valid Oklahoma podiatric medical license, be in good standing, and cannot have restrictions on his or her podiatric medical license with the Board of Podiatric Medical Examiners. *See* 63 O.S.Supp.2019, § 427.10(A); OKLA. ADMIN. CODE § 310:681-1-9(a). A podiatric physician who has not completed his or her first residency may not recommend medical marijuana.
2. Licensed Oklahoma podiatrists should only sign medical marijuana recommendations related to the care and treatment of ailments, diseased conditions, deformities, or injuries related to the practice of podiatric medicine as set forth in the Podiatric Medicine Practice Act, 59 O.S.2011, § 135.1.
3. Although Oklahoma law does not require a licensed podiatric physician to obtain a registration, a licensed Podiatrist may register with the Oklahoma Medical Marijuana Authority (“OMMA”) as a physician to recommend medical marijuana to patients. He or she has the option to publicly share your registration information or keep certain information private to the extent allowed by Oklahoma law.
4. A licensed podiatric physician must establish a medical record for the patient and possess a *bona fide* physician-patient relationship.
5. When recommending medical marijuana to a patient, a licensed Podiatrist must properly evaluate a patient’s medical condition and then prescribe medical marijuana adhering to the accepted standards that a reasonable prudent physician would follow for recommending or approving any medication. *See* 63 O.S.Supp.2019, § 427.10(C).
6. Prior to submitting a Physician Verification Form, a podiatric physician must verify a patient’s identity with OMMA. *See* OKLA. ADMIN. CODE § 310:681-1-7.
7. A podiatric physician must complete all required portions of a Physician Recommendation Form for it to be considered by OMMA.
8. While a podiatric physician may prescribe to adults and minors, two (2) physicians must sign a Physician Recommendation Form submitted on behalf of a minor. While the law does not specify if the physicians must hold the same education credential, it would be a best practice to have a second podiatric physician to sign off on the Recommendation Form.
9. A podiatric physician’s practice location cannot be collocated at the same physical address as a dispensary or cultivation center.
10. A medical marijuana recommendation may last for up to two (2) years.
11. A podiatric physician should use his or her reasonable medical judgment to determine whether a patient’s underlying medical condition warrants at sixty (60) day or two (2) year registration with OMMA.
12. A podiatric physician may terminate his or her recommendation by notifying the State Department of Health (“OSDH”) that he or she has determined that the continued use of medical marijuana by patient no longer meets requirements for possession of a license. *See* 63 O.S.Supp.2019, § 427.10(E).
  - a. The recommending podiatric physician will need to comply with OSDH’s requests for information or documentation for a termination to be processed.

Medical Marijuana Prescribing Guidelines for Licensed Podiatrists

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13. A podiatric physician should not recommend a medical marijuana license if he or she knows or should know that the license will be abused and the licensee will willfully violate those sections of law regarding medical marijuana in Title 63 of the Oklahoma State Statutes. *See* 59 O.S.Supp.2019, § 149.1.

Podiatric Physicians must also follow the Code of Ethics of the American Podiatric Medical Association. *See* 59 O.S.2011, § 148(A)(12). Any violation of the Code of Ethics is a violation of the Podiatric Medicine Practice Act. Consequently, podiatric physicians should comply with all provisions of the Code of Ethics at all times. The following provisions from the Code of Ethics are especially relevant to the recommendation of Medical Marijuana:

- Under ME4.41, a podiatric physician cannot cease providing care or being able to provide care to a patient “without giving the patient sufficient notice and/or the opportunity to seeking continuing treatment with another health care practitioner.” Consequently, a podiatric physician may want to consider advising a patient that he or she intends to revoke his or her recommendation for the patient to have a medical marijuana license to provide the patient an opportunity to seek a new podiatric physician who may be willing to recommend medical marijuana.
- Under ME5.11, a podiatric physician should respectfully advise patients whether he or she will recommend medical marijuana or not.
- Under BE1.11, podiatric physicians must ensure that communications to the public are accurate and do not convey false, untrue, deceptive, or misleading information. As such, a podiatric physician should accurately advise others on all facts related to the recommendation of medical marijuana as a treatment when directing information for public consumption.
- Under BE2.41, a podiatric physician must truthfully disclose actual and potential conflicts of interest in the recommendation and/or prescription of services, materials, medicines, and facilities that may be utilized in the care of a patient. Therefore, a podiatric physician should disclose any actual or potential conflicts of interest regarding ownership of or financial interest in any dispensary or other commercial medical marijuana entity in operation in this State.
- Under BE4.11, a podiatric physician has a responsibility to supervise his or her employees and/or contractors. Accordingly, a podiatric physician should take all necessary steps to ensure that no employees and/or contractors are signing off on recommendations.
- Under BE4.21, only a podiatric physician should sign a recommendation. Thus, no one on staff other than the licensed podiatric physician should be signing off on recommendations. Under no circumstances should the podiatric physician delegate his or her authority for signing off on a recommendation form.
- Under BE4.31, a podiatric physician has a duty to strive to practice podiatric medicine consistent with standards of care established within the community. As a matter of practice, a podiatric physician should only recommend medical marijuana so long as it is standard care and practice to offer medical marijuana under the particular circumstances in the case within the community that the podiatric physician practices in.

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The State Board of Podiatric Medical Examiners further adopts or adapts the following guidelines<sup>1</sup> published by the Federation of State Medical Boards (“FSMB”) in April 2016:

### Podiatric Physician – Patient Relationship<sup>2</sup>

The health and well-being of patients depends upon a collaborative effort between the physician and the patient. The relationship between a patient and a podiatric physician is complex and based on the mutual understanding of the shared responsibility for the patient’s health care. The podiatric physician-patient relationship is fundamental to the provision of acceptable medical care. Therefore, podiatric physicians must have documented that an appropriate podiatric physician-patient relationship has been established, prior to providing a recommendation, attestation, or authorization for marijuana to the patient. Consistent with the prevailing standard of care, podiatric physicians should not recommend, attest, or otherwise authorize marijuana for themselves or family member.

### Patient Evaluation<sup>3</sup>

A documented in-person medical evaluation and collection of relevant clinical history commensurate with the presentation of the patient must be obtained before a decision is made as to whether to recommend marijuana for medical use. At minimum, the evaluation should include the patient’s history of present illness, social history, past medical and surgical history, alcohol and substance use history, family history with emphasis on addiction or mental illness/ psychotic disorders, physical exam, documentation of therapies with inadequate response, and diagnosis requiring the marijuana recommendation.

### Informed and Shared Decision Making<sup>4</sup>

The decision to recommend marijuana should be a shared decision between the podiatric physician and the patient. The podiatric physician should discuss the risks and benefits of the use of marijuana with the patient. Patients should be advised of the variability and lack of standardization of marijuana preparations and the effect of marijuana. Patients should be reminded not to drive or operate heavy machinery while under the influence of marijuana. If the patient is a minor or without decision-making capacity, the podiatric physician should ensure that the patient’s parent, guardian or surrogate is involved in the treatment plan and consents to the patient’s use of marijuana.

### Treatment Agreement<sup>5</sup>

A health care professional should document a written treatment plan that includes:

- Review of other measures attempted to ease the suffering caused by the terminal or debilitating medical condition that do not involve the recommendation of marijuana.

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<sup>1</sup> Report of the FSMB Workgroup on Marijuana and Medical Regulation, *Model Guidelines for the Recommendation of Marijuana in Patient Care*, FEDERATION OF STATE MEDICAL BOARDS, April 2016.

<sup>2</sup> *Id.* at 6.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 7.

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- Advice about other options for managing the terminal or debilitating medical condition.
- Determination that the patient with a terminal or debilitating medical condition may benefit from the recommendation of marijuana.
- Advice about the potential risks of the medical use of marijuana to include:
  - The variability of quality and concentration of marijuana;
  - The risk of cannabis use disorder;
  - Exacerbation of psychotic disorders and adverse cognitive effects for children and young adults;
  - Adverse events, exacerbation of psychotic disorder, adverse cognitive effects for children and young adults, and other risks, including falls or fractures;
  - Use of marijuana during pregnancy or breast feeding;
  - The need to safeguard all marijuana and marijuana-infused products from children and pets or domestic animals; and
  - The need to notify the patient that the marijuana is for the patient's use only and the marijuana should not be donated or otherwise supplied to another individual.
- Additional diagnostic evaluations or other planned treatments.
- A specific duration for the marijuana authorization for a period no longer than twelve months.
- A specific ongoing treatment plan as medically appropriate.

### Qualifying Conditions<sup>6</sup>

At this time, there is a paucity of evidence for the efficacy of marijuana in treating certain medical conditions. Recommending marijuana for certain medical conditions is at the professional discretion of the podiatric physician. The indication, appropriateness, and safety of the recommendation should be evaluated in accordance with current standards of practice and in compliance with state laws, rules and regulations, which specify qualifying conditions<sup>7</sup> for which a patient may qualify for marijuana. However, Oklahoma law explicitly does not require physicians to document any qualifying condition. *See* 63 O.S.Supp.2019, § 420(M). Specifying a medical condition on a Patient Recommendation Form may be probative that a recommending podiatric physician is recommending medical marijuana in accordance with accepted standards that a reasonable prudent physician would follow for recommending or approving any medication.

### Ongoing Monitoring and Adapting Treatment Plan<sup>8</sup>

A podiatric physician recommending marijuana should register with the appropriate oversight agency and provide the registry with information each time he or she issues a recommendation. The podiatric physician should regularly assess the patient's response to the use of marijuana and overall health and level of function. This assessment should include the efficacy of the treatment to the patient, the goals of the treatment, and the progress of those goals.

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<sup>6</sup> *Id.* at 7.

<sup>7</sup> Oklahoma does not require any qualifying conditions. Instead, the podiatric physician should make his or her recommendations according to accepted standards a reasonable and prudent physician would follow when recommending or approving any medication. *See* 63 O.S.Supp.2019, § 420(M).

<sup>8</sup> Report, at 7.

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### Consultation and Referral<sup>9</sup>

A patient who has a history of substance use disorder or a co-occurring mental health disorder may require specialized assessment and treatment. The podiatric physician should seek a consultation with, or refer the patient to, a pain management, psychiatric, addiction or mental health specialist, as needed.

### Medical Records<sup>10</sup>

The podiatric physician should keep accurate and complete medical records. Information that should appear in the medical record includes, but is not necessarily limited to the following:

- The patient's medical history, including a review of prior medical records as appropriate;
- Results of the physical examination, patient evaluation, diagnostic, therapeutic, and laboratory results;
- Other treatments and prescribed medications;
- Authorization, attestation or recommendation for marijuana, to include date, expiration, and any additional information required by state statute;
- Instructions to the patient, including discussions of risks and benefits, side effects and variable effects;
- Results of ongoing assessment and monitoring of patient's response to the use of marijuana;
- A copy of the signed Treatment Agreement, including instructions on safekeeping and instructions on not sharing.

### More Information

Podiatric physicians can consult directly with OMMA about any questions that they may have. OMMA can be contacted by phone at 405-522-6662 or by email at [OMMAphysicians@ok.gov](mailto:OMMAphysicians@ok.gov).

*Guidelines adopted on* \_\_\_\_\_.

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<sup>9</sup> *Id.* at 7

<sup>10</sup> *Id.* at 8.