



# State of West Virginia *Board of Medicine*

AHMED DAVER FAHEEM, MD  
PRESIDENT

RAHUL GUPTA, MD, MPH  
SECRETARY

101 Dee Drive, Suite 103  
Charleston, WV 25311  
Telephone 304.558.2921  
Fax 304.558.2084  
www.wvbom.wv.gov

KISHORE K. CHALLA, MD, FACC  
VICE PRESIDENT

ROBERT C. KNITTLE  
EXECUTIVE DIRECTOR

## **Comments Received and Responses Thereto**

On May 31, 2016, the West Virginia Board of Medicine filed a Notice of Comment Period on a Proposed Rule, 11 CSR 1A to amend and modernize this legislative rule. The Notice established a thirty day comment period on the proposed rule. During the comment period, the Board received two written comments.

On June 8, 2016, the Board received written comments from Ted Buckley, Ph.D., Head of US Government Relations and Public Affairs for Shire. The comment supports the Board's proposed amendment to 11 CSR 1A, section 12.1.ee.A, which adds binge eating disorder to the list of conditions for which Schedule II amphetamine or sympathomimetic amine drugs may be prescribed, ordered, dispensed, administered, supplied, sold or given. The commenter notes that this modification brings the Board's rule in line with a January 30, 2015 determination of the FDA to approve Vyvanse, a Schedule II amphetamine or sympathomimetic amine, for the treatment of binge eating disorder. This comment did not recommend any changes to the proposed rule, and no amendments were made in association therewith.

On June 22, 2016, the Board received written comments from the WV Podiatric Medical Association ("WVPMA"). In its comment, the WVPMA requested that the Board update the "terminology/taxonomy" of those that practice podiatry. In this respect, the WVPMA requested that the Board modify the rule to refer to the practice of "Podiatric Medicine and Surgery" as opposed to the historical term of "Podiatry." Likewise, the WVPMA requested that the Board refer to practitioners of podiatric medicine and surgery as podiatric physicians and surgeons. In support of its comment, the WVPMA indicated that thirty-five other states have adopted the proposed nomenclature, including the border states of Kentucky and Ohio. The Board considered the comments of the WVPMA, and determined that the proposed modernization of nomenclature is appropriate and is consistent with the practice of the profession as set forth in the West Virginia Medical Practice Act. W. Va. Code §30-3-2(4). Accordingly, throughout the rule, term "podiatry," when referring to the practice of the profession, has been replaced with "podiatric medicine and surgery." The term podiatrist has been replaced with "podiatric physician and surgeon" or "podiatric physician" throughout.

June 8, 2016

Mr. Robert C. Knittle, M.S., Executive Director  
West Virginia Board of Medicine  
101 Dce Drive  
Suite 103  
Charleston WV 25311

RE: Proposed Revisions to West Virginia Board of Medicine Legislative Rule Title 11, Series 1A  
Licensing and Disciplinary Procedures: Physicians; Podiatrist.

Dear Mr. Knittle,

I am writing to express support for the modifications proposed by the West Virginia Board of Medicine to facilitate the treatment of Binge Eating Disorder (B.E.D.) within Legislative Rule Title 11, Series 1A Licensing and Disciplinary Procedures: Physicians; Podiatrist.

In 2013, the American Psychiatric Association (APA) published the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5), which included the recognition of B.E.D. as a distinct psychiatric diagnosis for the first time. Before then, B.E.D. was considered a provisional diagnosis, a designation that ultimately changed in light of the emerging data on its prevalence. An estimated 2.8 million adults in the U.S. suffer from B.E.D., making it more prevalent in this country than anorexia nervosa and bulimia nervosa combined.

According to the APA, B.E.D. is a distinct mental health condition manifested by recurring episodes of eating significantly more food in a short period of time than most people would eat under similar circumstances, with episodes marked by feelings of lack of control over eating and marked distress. These episodes occur on average at least once a week for three months. Among other symptoms, a person with B.E.D. may feel disgusted, depressed, or guilty about the episode. Unlike people with other eating disorders, adults with B.E.D. don't routinely try to "undo" their excessive eating with extreme actions like purging or over-exercising.


On January 30, 2015, the FDA approved Vyvanse (lisdexamfetamine dimesylate), which is manufactured by Shire, for adults with moderate to severe B.E.D. Vyvanse is currently the only FDA-approved pharmacological treatment for adult patients with moderate to severe B.E.D.

Despite FDA approval, we learned that West Virginia Board of Medicine rules that govern physicians in the state restrict doctors from prescribing Vyvanse, which is designated as a Schedule II controlled substance under the West Virginia code, for moderate to severe B.E.D. in adults. After working with a handful of other states with similar restrictions to update their physician regulations, West Virginia is the only state that still prevents physicians from prescribing Vyvanse to treat moderate to severe B.E.D. in adults as approved by the FDA. Earlier this year, a bill modifying the language of the Board of Medicine rules to allow physicians to prescribe Vyvanse for its FDA-approved indication was passed by the state legislature but was subsequently vetoed by Governor Tomblin as part of a bill bundle that was vetoed for reasons unrelated to the Vyvanse legislation.

The existing Board of Medicine rules were established before Vyvanse was approved by the FDA as a treatment for adults with moderate to severe B.E.D in 2015 and before the APA formally recognized B.E.D. in 2013 as a distinct psychiatric disorder in the DSM-5. This, unfortunately, has resulted in a gap between medical practice rules and current scientific and medical understanding. That gap now that limits patient access to the only FDA-approved pharmacological treatment for B.E.D and unnecessarily exposes physicians to potential disciplinary action when prescribing Vyvanse in accordance with the FDA's approved indications. The proposed revisions to the rule related to B.E.D. will correct this situation.

Again, we support the proposed revisions offered by the West Virginia Board of Medicine to its rule that remove the barrier to prescribing Vyvanse for adult patients with moderate to severe B.E.D. We believe this is the right thing to do for both the patients and their physicians.

Best,



Ted Buckley, Ph.D.  
Head of US Government Relations and Public Affairs  
Shire  
1001 Connecticut Avenue, NW, Ste 925  
Washington, DC 20036



President - Jerry Hadrych, DPM • Vice President – Robert A. Dale, DPM • Secretary/Treasurer – Jeffrey Findling, DPM  
1960 Bethel Road, Suite 140, Columbus, OH 46220-1815  
614.457.6269 • www.westvirginiapma.weebly.com

June 22, 2016

WVBM JUN30'16

Robert Knittle, Executive Director  
West Virginia Board of Medicine  
101 Dee Drive, Suite 103  
Charleston, West Virginia 25311

RE: 11CSR1A

Dear Mr. Knittle,

We appreciate the opportunity to provide comment to the Board of Medicine regarding 11CSR1A regarding §11-1A-6 as it relates to §11-1A (6-7-8-9-10) throughout. The West Virginia Podiatric Medical Association seeks to update the terminology/taxonomy of those that practice podiatry, i.e., podiatric medicine and surgery to the term podiatric physicians and surgeons for consistency.

Without going sentence by sentence the title of §11-1A-6 should be Qualification and Application for a License to Practice Podiatry Podiatric Medicine and Surgery. Likewise, our association feels it's appropriate to change the term podiatrist (e.g., 6.1) to podiatric physician or surgeon. The practice should be podiatric medicine and surgery and qualified as doctor of podiatric medicine and surgery for the appropriate distinction as a specialty that is limited to the foot and ankle. This distinction has been made in 35 other states and is used in the bordering states of Kentucky and Ohio. We are supplying a listing from the American Podiatric Medical Association, albeit the date is 2010.

We applaud the efforts of the Board of Medicine and realize that updating Rules can be daunting. We also realize that most of these requested changes may be editorial but necessary with trends in medicine and hospital practice settings. Only physicians can do surgery, so that taxonomy should be updated so that there is no question that DPM's are podiatric physicians and surgeons that practice podiatric medicine and surgery. As the DPM designation attests, Doctors of Podiatric Medicine will remain a valued specialist of the foot and ankle in medicine and surgery in clinics, hospitals, surgery centers, private practices, group practice or extended care facilities.

Please let us know if you have questions. We appreciate the opportunity to recommend to the Board these updates to Title 11 to current and accepted taxonomy for DPMs.

Sincerely,

*Jerry I. Hadrych, DPM*

Jerry Hadrych, DPM  
President, WVPMA

DPM Definition Chart<sup>1</sup>  
January 2010

The following does not represent a complete list of states that provide a statutory and/or regulatory definition of the term "podiatrist." Instead, this list is limited to states in which podiatrists are defined in the state's podiatric practice act as physicians. States that are not listed below likely define "podiatrist" in other areas of state law, such as the worker's compensation statutes. For more information please contact State Advocacy at [advocacy@apma.org](mailto:advocacy@apma.org).

<u>State</u>	<u>Regulatory Board</u>	<u>Definition of Podiatrist (Statute)</u>	<u>Definition of Podiatrist (Regulation)</u>
Arizona	Board of Podiatry Examiners	Podiatrist means podiatric physician and surgeon (Ariz. Rev. Stat. Ann. § 32-801.10. (2008)).	
Arkansas	Board of Podiatric Medicine	Podiatrist means a physician legally licensed to practice podiatric medicine (Ark. Code Ann. § 17-96-101(3)) (2008)).	
Colorado	Podiatry Board	Podiatric physician or Podiatrist means any person who practices podiatry (Colo. Rev. Stat. § 12-32-101(2) (2006)).	
Delaware	Board of Podiatry Examiners	Does not define Podiatrist as Physician or Podiatric Physician in Practice Act. But uses term podiatric physician in practice act statute "The Board may also issue a temporary license to practice as a podiatric physician to an applicant who is participating in a residency program in this State and who is an otherwise qualified applicant for licensure in this State (Del. Code. Ann. 24 Sec 513 (d) (2009))." Legislative History: Section (d) was re-written by amendment in 2006	Does not define podiatrist as physician or podiatric physician in practice. But uses the the term podiatric physician in Board of Podiatry Examiners regulations: "an In-Training license to podiatric physicians who are (1) participating in this State in a residency program accredited by the Council on Podiatric Medical Education and (2) are otherwise qualified for licensure. Del. Code of Reg. 24-500.5.1 (2009)
Florida	Board of Podiatric Medicine	"Podiatric physician" means any person licensed to practice podiatric medicine pursuant to this chapter. (Fla. Stat. Ann. § 461.003(4) (2009).	The Term Podiatric Physician is used in Board of Podiatric Medicine Regulations

DPM Definition Chart<sup>1</sup>  
January 2010

Georgia	State Board of Podiatry Examiners	Podiatrist means a physician and surgeon of the human foot and leg (Ga. Code Ann. § 43-35-3(7) (2008)).	
Idaho	State Board of Podiatry	Podiatrist is a person that practices podiatry who is considered a physician and surgeon of the foot and ankle (Idaho Code Ann. § 54-602 (2008)).	
Illinois	Podiatric Medical Licensing Board	Podiatric physician means a physician licensed to practice podiatric medicine (225 Ill. Comp. Stat. 100/5 (D) (2008)).	
Indiana	Board of Podiatric Medicine	Podiatrist means a Doctor of podiatric Medicine, podiatric physician and podiatric surgeon (Ind. Code § 25-29-1-13 (2008)).	
Iowa	Board of Podiatry	Podiatrist means a licensed physician or surgeon who is engaged in the practice of podiatric medicine and surgery (Iowa Code § 149.1 (2007)).	
Kansas	Kansas Board of Healing Arts		The term physician includes podiatrists for purposes of regulation by the Kansas healing arts board. How inclusive the term "physician" is for other purposes depends on the applicable statutory definition. (94 Op. Atty. Gen. 148 (Ky 1994)).
Kentucky	State Board of Podiatry	Podiatrist is a physician or surgeon who has graduated from a college of podiatric medicine accredited by CPME. (KY. Stat. Ann. § 311.380(3) (LexisNexis 2008)).	

DPM Definition Chart<sup>1</sup>  
January 2010

Louisiana	Board of Medicine	Licensed podiatric physicians and surgeons means one licensed and holding a certificate under this chapter.(La. Rev. Stat. Ann. § 37:611 (2) (2009).	
Michigan	Board of Podiatric Medicine and Surgery	Podiatrist means a physician and surgeon licensed under this article to engage in the practice of podiatric medicine and surgery (Mich. Comp. Laws § 333.18001 (2008)).	
Minnesota	Board of Podiatric Medicine	Practice of podiatric medicine defined. It is unlawful for any person not holding a valid license or permit issued in accordance with this chapter to (2) use in the conduct of any occupation or profession pertaining to the diagnosis or medical, mechanical, or surgical treatment of the ailments of the human hand, foot, ankle, or soft tissue of the lower leg distal to the tibial tuberosity, the designation "doctor of podiatric medicine," "podiatrist," "D.P.M.," "podiatric physician," "chiropodist," "foot specialist," or "foot doctor," or uses any title, degree, letter, syllable, word, or words that would tend to lead the public to believe that person was authorized to practice or assume duties incident to the practice of podiatric medicine. (Minn. Stat. § 153.17 (2009)).	
Missouri	Board of Podiatric Medicine	Podiatrist is a physician of the foot (Mo. Rev. Stat. § 330.010.1(2007)).	

DPM Definition Chart<sup>1</sup>  
January 2010

Montana	Board of Medical Examiners (membership includes: 5 MDs; 1 DO; 1 DPM; 1 licensed nutritionist; one 1 PA; and 2 members of the general public who are not medical practitioners)	Podiatrist means a physician or surgeon of the foot and ankle, licensed to diagnose and treat ailments of the human functional foot and ankle (Mont. Code Ann. § 37-6-101 (2007)).	
Nebraska	Board of Podiatry	Podiatrists means a physician of the foot, ankle, and related governing structures. (Neb. Rev. Stat. § 38-3004 (2008)).	
Nevada	State Board of Podiatry	Uses the term in Podiatric Physician but does not define. Nev. Rev. Stat. § 635.085 is titled as "Authorized activities of Podiatric Physicians" which includes podiatric scope of practice.	
New Jersey	State Board of Medical Examiners (21 Members for which 12 must be a MD or DO, no such requirement for DPM)	A podiatrist is a physician within the scope of this chapter and may be referred to as a podiatric physician (N.J. Rev. Stat. § 45:5-7 (2008)).	
New Mexico	Board of Podiatry	A podiatrist is defined as a physician and surgeon within the scope of his license (N.M. Stat. Ann. § 61-8-2 (LexisNexis 2008)).	
North Carolina	Board of Podiatry Examiners	The following shall not constitute practicing medicine or surgery as defined in this Article: (8) The practice of podiatric medicine and surgery by any legally licensed podiatric physician when engaged in the practice of podiatry as defined in Article 12A of this Chapter. (N.C. Gen. Stat. § 90-18 (2009)).	

DPM Definition Chart<sup>1</sup>  
January 2010

North Dakota	Board of Podiatric Medicine	Use the designation "doctor of podiatric medicine", "podiatrist", "D.P.M.", "podiatric physician", "chiropract", "foot specialist", or "foot doctor", or use any title, degree, letters, symbol, or words that would tend to lead the public to believe that that person is authorized to practice or assume duties incident to the practice of podiatric medicine.(N.D. Cent. Code § 43-05-09 (2009)).	
Ohio	Ohio Board of Medicine (7 MDs, 1 DO, 2 Public Members, and 1 DPM)	A certificate authorizing the practice of podiatric medicine and surgery permits the holder the use of the title "physician" or the use of the title "surgeon" when the title is qualified by letters or words showing that the holder of the certificate is a practitioner of podiatric medicine and surgery. The certificate shall be prominently displayed in the certificate holder's office or the place where a major portion of the certificate holder's practice is conducted. (Ohio. Rev. Code. Ann. 4731.56 (2009)).	"a podiatric physician may perform surgery on the ankle joint, if" followed by requirements that a podiatric physicians must meet in order to perform ankle surgeries. (Ohio Admin. Code 4731:20-02 (2009)).
Oklahoma	Board of Podiatric Medical Examiners	"Podiatric physician", "doctor of podiatric medicine" and "podiatrist" are synonymous and mean a person duly licensed pursuant to the laws of this state to practice podiatric medicine.(Okla. Stat. Tit. 59 § 136 (2009)).	"D.P.M," "podiatric physician," "doctor of podiatric medicine," Doctor of Surgical Chiropody, DSC, and Podiatrist are synonymous and means a person licensed to practice podiatric medicine in this state (Okla. Admin. Code § 545:1-1-2 (2007)).

DPM Definition Chart<sup>1</sup>  
January 2010

<p>Oregon</p>	<p>Medical Board (membership includes: 7 MDs, 2 DOs, 1 DPM, and 2 Public Members)</p>	<p>Podiatric Physician and Surgeon means a podiatric physician and surgeon whose practice is limited to treating ailments of the human foot, ankle, and tendons directly attached to and governing the function of the foot and ankle (Or. Rev. Stat. § 677.805 (2009)).</p>	<p>Podiatric Physician and Surgeon means a podiatric physician and surgeon whose practice is limited to treating ailments of the human foot, ankle, and tendons directly attached to and governing the function of the foot and ankle (Or. Admin. R. 847-080-0001 (2008)).</p>
<p>Rhode Island</p>	<p>Rhode Island Board of Podiatric Medicine</p>	<p>Defines practice of podiatry as: "Any person is practicing podiatry within the meaning of this chapter who uses or permits to be used, directly or indirectly, for profit or otherwise, for their own self or for any other person, in connection with their own name, the word "podiatrist" or "podiatric physician and surgeon," or the title DPM, or any other words, letters, titles, or descriptive matter, personal or not, which directly or indirectly implies the practice of podiatry..." (R.I. Gen. Laws §5-29-1(l) (2009)).</p>	
<p>South Dakota</p>	<p>Board of Podiatry Examiners</p>	<p>A person licensed pursuant to this chapter as a podiatrist shall be designated a podiatric physician (S.D. Codified Laws § 36-8-1 (2008)).</p>	

DPM Definition Chart<sup>1</sup>  
January 2010

Tennessee	Board of Podiatric Medical Examiners		Uses of title - Any person who posses a valid, unsuspended and unrevoked license issued by the Board has the right to use the titles and or initials "Podiatrist," "Podiatric Physician," "Doctor of Podiatry," "Doctor of Podiatric Medicine," "Doctor of Podiatric Medicine and Surgery," or "D.P.M." (Tenn. Comp. R. & Regs. 1155-02.03 (2009)).
Texas	Texas State Board of Podiatric Medical Examiners		A licensed practitioner of podiatric medicine shall always in any publication that includes his name use only the authorized designation to professionally identify himself or herself. Authorized designations for a podiatric physician are limited to the following: Doctor of Podiatric Medicine, D.P.M., Podiatrist, Podiatric Physician. (22 Tex. Admin. Code § 373.3(a)(2009)).
Utah	Podiatric Physician Board	Practice Act is titled "Podiatric Physicians Licesning Act" (Ut. Code. Ann 58-5a-xxx(2009))	
Vermont	Board of Medical Practice (Board is composed of 9 physicians, 1 podiatrist and 3 public members)	Podiatrist is considered a podiatric physician (26 Vt. Stat. Ann Tit. 26 § 321 (2007)).	

DPM Definition Chart<sup>1</sup>  
January 2010

Washington	Podiatric Medical Board	Podiatric physician and surgeon means an individual licensed under this chapter (Wash. Rev. Code § 18.22.010 (2008)).	
West Virginia	Board of Medicine (consists of 15 members including 2 DPMs)	A license authorizing the practice of podiatry does not permit the holder to use the title "physician" or to use the title "surgeon," unless that title is qualified by letters or words showing that the holder of the license is a practitioner of podiatry (W.Va. Code R. § 11-1A-3 (2008)).	
Wyoming	Board of Registration in Podiatry Examination		Term used in Continuing Education regulation: "The content of continuing education activities should help individual podiatric physicians to carry out his or her professional responsibilities more effectively and efficiently" (006-205-002-Wyo. Code R. § 7 (2009))

<sup>1</sup> **Disclaimer:** APMA created this document as a general resource for members about state statutes pertinent to the practice of podiatric medicine. However, APMA is not offering legal or other professional advice, and this material is not a substitute for the services of an attorney in a particular jurisdiction. APMA encourages users of this reference who need legal advice on issues involving state statutes to consult with a competent attorney. Additionally, since state law is subject to change, users of this guide should refer to state governments and case law for current or additional applicable material.