



Janet Napolitano  
Governor

State Of Arizona Board of Podiatry Examiners  
"Protecting the Public's Health"

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Barry Kaplan, DPM; Joseph Leonetti, DPM; Dedrie Polakof, DPM; Paula Hollins, Public Member;  
Jeanne Reagan, Public Member; Sarah Penttinen, Executive Director

**REGULAR SESSION MINUTES**  
**Board Meeting**

January 14, 2009, 8:30 a.m.  
1400 West Washington St., B1  
Phoenix, AZ 85007

Board Members Present: Dedrie Polakof, D.P.M., Board President  
Joseph Leonetti, D.P.M., Member  
Barry Kaplan, D.P.M., Member  
Paula Hollins, Secretary-Treasurer  
Jeanne Reagan, Public Representative

Assistant Attorney General: Keely Verstegen

Staff: Sarah Penttinen, Executive Director

**A. CALL TO ORDER**

Dr. Polakof called the meeting to order at 8:37 am.

**B. ROLL CALL**

Dr. Polakof called roll and all Board members were present.

**C. APPROVAL OF MINUTES**

1. December 10, 2008 Regular Board Meeting Minutes.

MOTION: Jeanne Reagan moved to approve the December 10, 2008 regular session minutes.

Dr. Polakof seconded the motion.

VOTE: The Motion passed unanimously.

2. December 10, 2008 Executive Session Minutes

No Executive Session was convened during the December 10, 2008 meeting.

**D. REVIEW, DISCUSSION AND POSSIBLE ACTION ON REGULATORY MATTERS.**

**1. INVESTIGATIVE INTERVIEWS**

a. 08-21-C SERJIK NAZARIAN - Re-interview requested per Dr. Nazarian.

Dr. Nazarian appeared with his attorney Mark Gove. Dr. Nazarian addressed the Board regarding his concerns about his previous appearances at Board meetings. The Board asked Dr. Nazarian questions, which he answered, regarding wearing gloves while treating patients, this patient's history and course of treatment including a post-operative infection, record-keeping and charting of prescription medications, and informed consent form for this procedure. Mr. Gove addressed the Board regarding the Board meeting process and pointed out that this matter pre-dates Dr. Nazarian being placed on probation for similar concerns in a separate matter. Dr. Nazarian echoed Mr. Gove's statements with particular reference to his record-keeping. Dr. Leonetti expressed concerns regarding Dr. Nazarian's continued problems with charting.

MOTION: Dr. Polakof moved to dismiss this matter finding no violations. Dr. Leonetti seconded the motion.

During discussion of the motion, several Board members felt there were enough issues with this complaint to warrant a Letter of Concern, and Dr. Polakof withdrew her motion.

SECOND MOTION: Dr. Leonetti moved to issue a Letter of Concern for inadequate record-keeping. Dr. Kaplan seconded the motion. There was no discussion on the second motion.

VOTE: The motion passed unanimously.

b. 08-31-C APRAJITA NAKRA

Dr. Nakra was present with her attorney Edward Ladley. Dr. Nakra verbally summarized her diagnosis and treatment given to the patient. The Board asked questions, which Dr. Nakra answered, regarding the surgery procedure, consent form, and the patient seeking a second opinion from another doctor. Dr. Polakof abstained from the adjudication of this matter because she was the investigator of this complaint.

MOTION: Dr. Kaplan moved to dismiss this matter finding no violation. Dr. Leonetti seconded the motion. There was no discussion on the motion.

VOTE: Dr. Kaplan, Dr. Leonetti, Ms. Hollins and Ms. Reagan voted yes; Dr. Polakof abstained. The motion passed.

c. 08-35-M GLENN NELSON

Dr. Nelson appeared without an attorney. Dr. Nelson explained the terms of the settlement in this civil matter and his diagnosis and treatment of the patient. The Board asked questions, which Dr. Nelson answered, regarding the surgery procedure and the patient's post-operative care in light of his housing situation. The Board also reviewed Dr. Nelson's 2008 license renewal and that he did not disclose that he had been served with a malpractice lawsuit during the previous year. Dr. Nelson explained that the matter was never formally filed in court; all actions in that regard were done prior to the filing of an actual civil complaint.

MOTION: Dr. Polakof moved to dismiss the matter finding no violation. Dr. Kaplan seconded the motion. There was no discussion on the motion.

VOTE: The motion passed unanimously.

d. 08-36-C JAMES WILSON

Dr. Wilson appeared with his attorney Bruce Crawford. Dr. Wilson verbally summarized the patient's history and the treatment he provided to the patient. The Board asked Dr. Wilson questions about the course of treatment, the patient's surgery procedure, whether a bone culture had been completed and follow-up x-rays. Dr. Wilson answered the Board's questions.

MOTION: Dr. Leonetti moved to issue a Letter of Concern for not conducting a bone culture and for not completing post-surgical x-rays. Dr. Kaplan seconded the motion. There was no discussion on the motion.

VOTE: The motion passed unanimously.

2. **INITIAL REVIEW**

a. 08-43-C Darin Bocian: Alleged practice below the standard of care.

Dr. Bocian was not present. Dr. Kaplan verbally summarized the complaint information. The Board members discussed Dr. Bocian's written response and explanation of his care of the patient, and reviewed the pictures submitted by the patient.

MOTION: Dr. Polakof moved to dismiss the matter finding no violation. Dr. Leonetti seconded the motion. There was no discussion on the motion.

VOTE: The motion passed unanimously.

- b. 08-44-C Alex Bui: Alleged billing irregularities.

Dr. Bui was not present. Dr. Kaplan verbally summarized the complaint information. The Board discussed Dr. Bui's written response and explanation of his care of the patient.

MOTION: Dr. Leonetti moved the following: direction Board staff to obtain billing records from Cigna for claims submitted by Dr. Bui for this patient; invite Dr. Bui to attend the next Board meeting to discuss this matter; ask the doctor to submit complete medical and billing records for this patient, if not already submitted; and ask the doctor to submit copies of the front and back of checks for reimbursement payments sent to Cigna. Dr. Kaplan seconded the motion. There was no discussion on the motion.

VOTE: The motion passed unanimously.

### **3. OPEN COMPLAINTS**

- a. 05-27-M ELAINE J. SHAPIRO: Litigation is complete. Kevin Nicholas, attorney to Dr. Shapiro, previously requested and was granted a continuance until the January 14, 2009 board meeting due to a conflict with scheduling from Dr. Shapiro and his office.

Dr. Shapiro was present with her attorney Kevin Nicholas. Mr. Nicholas provided a brief verbal summary of this civil lawsuit which has now settled. This matter was tabled to assign to one physician member of the Board to review the medical records and report their findings back to the Board at a future Board meeting. Dr. Leonetti stated he will review the records in this matter.

- b. 08-12-C ELAINE SHAPIRO: Update on hospital action.

Dr. Shapiro was present with her attorney Kevin Nicholas. Executive Director Penttinen informed the Board members that as of yesterday she was informed by Northwest Medical Center that Dr. Shapiro's practicing privileges at that facility had been terminated, and due to that, no further peer review or internal investigation has been done. The Board discussed this matter with Dr. Shapiro who confirmed that her privileges at that facility were terminated; however, she stated that was due to a Board action taken in another matter and not due to the circumstances in this specific case. This matter was tabled with direction to staff to request of the hospital written verification of the date and reason for the termination of privileges.

- c. 08-38-C CLARK FULLMER: Alleged practice below standard of care.

Dr. Fullmer was present with his attorney Kenneth Baker. Mr. Baker stated for the record that Dr. Fullmer has not had the opportunity to review the complete patient records because he no longer works at the facility where he treated the patient. Dr. Fullmer verbally summarized his diagnosis and treatment of the patient. The Board asked questions, which Dr. Fullmer answered, regarding his care for the patient as well as the circumstances surrounding his departure from that facility. The Board reviewed the patient's x-rays provided by the facility.

MOTION: Dr. Polakof moved to dismiss the matter finding no violation. Ms. Reagan seconded the motion. There was no discussion on the motion.

VOTE: The motion passed unanimously.

### **4. STATUS UPDATES – No board action; information only.**

- a. 06-22-M ANDREW LOWY: Litigation still pending.

No new information was received since the last update of November 4, 2008. The Board tabled this matter for future review and to continue with quarterly reports.

- b. 07-28-C KENT PETERSON: Monthly report update.

A new update was received on December 30, 2008. The Board tabled this matter for future review and to continue with monthly reports.

- c. 08-34-B STANTON COHEN: Litigation still pending.

A new update was received on January 6, 2009. The Board tabled this matter for future review and to continue with quarterly reports.

- d. 08-39-M SCOTT MALING: Litigation still pending.

A new update was received on January 6, 2009. The Board tabled this matter for future review and to continue with quarterly updates.

- e. 08-40-M JASON HARRILL: Litigation still pending.

A new update was received on January 6, 2009. The Board tabled this matter for future review and to continue with quarterly updates.

## **5. PROBATIONARY STATUS REPORTS**

- a. 07-32-B SERJIK NAZARIAN: Monthly review of records for consent agreement.

Dr. Nazarian was present with his attorney Mark Gove. Dr. Kaplan discussed with Dr. Nazarian the records for patients S.R. with respect to the consent form and x-rays. Dr. Kaplan also discussed with Dr. Nazarian the records for patient J.S. with respect to the consent form. Dr. Leonetti asked Dr. Kaplan about the office notes which Dr. Kaplan stated were OK. Dr. Leonetti questions Dr. Kaplan about the charting and Dr. Kaplan stated that there did not appear to be any violation of state statutes. No action is taken at this time; the matter continues through the end of the probationary period.

- b. 06-04-C ALAN GAVECK: Monthly report update.

Dr. Gaveck was not present. A monthly report was received on January 7, 2009 indicating Dr. Gaveck did not perform any surgical procedures during December 2008. No action is taken at this time; the matter continues with monthly reports through the end of the probationary period.

- c. 08-03-C ELAINE SHAPIRO – Quarterly report update.

Dr. Shapiro was present with her attorney Kevin Nicholas. Executive Director Penttinen updated the Board members regarding Dr. Shapiro's compliance with the terms of her Consent Agreement.

MOTION: Dr. Polakof moved to go into Executive Session to obtain legal advice. Ms. Reagan seconded the motion. There was no discussion on the motion.

VOTE: The motion passed unanimously.

The Board went into Executive Session at 11:06 am and returned to Regular Session at 11:14 am.

Following Executive Session, Mr. Nicholas was not present. The Board asked questions, which Dr. Shapiro answered, regarding her prescription medications and general status in recovery. No action is taken at this time; the matter continues through the end of the probation period with continued quarterly reports.

## **E. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION ON CORRESPONDENCE**

1. Advertisement in Arizona Daily Star newspaper by Elaine Shapiro, DPM.

Dr. Shapiro was present. The Board asked questions, which Dr. Shapiro answered, regarding the advertisement. Dr. Leonetti stated that Dr. Shapiro was advertising surgical procedures and asked her if she has been performing any of those procedures. Dr. Shapiro said she has not. Upon further questioning she stated that she treats patients first with non-invasive methods and will refer them out if surgery is needed. Dr. Shapiro stated this ad only ran in the newspaper once, and that it was a "standing ad" and she did not recall the specific wording of the ad at the time she asked the newspaper to run it once more before the end of the year. Following discussion the Board decided to take no action in this matter.

2. Advertisement from Laser Nail Center, office of Richard Jacoby, DPM.

Dr. Jacoby was not present. The Board discussed the statements in the advertisement for informational purposes only. No action is taken in this matter.

3. Advertisement from Footcare Physicians of Scottsdale, office of Steven Burns, DPM.

Dr. Burns was not present. The Board discussed the statements in the advertisement for informational purposes only. No action is taken in this matter.

#### **F. DISCUSSION AND CONSIDERATION AND POSSIBLE ACTION ON ADMINISTRATIVE MATTERS**

The Board may vote to go into Executive Session pursuant to A.R.S. § 38-431.03(A) (2) (to discuss confidential information), A.R.S. § 38-431.03(A) (3) (to receive legal advice).

1. Election of Officers

MOTION: Dr. Polakof moved to nominate Dr. Leonetti for the position of President and Ms. Reagan for the position of Secretary-Treasurer. Dr. Kaplan seconded the motion. There was no discussion on the motion.

VOTE: The motion passed unanimously by roll-call vote.

2. Executive Director Report
  - a. Health Committee Meeting on December 15, 2008 and legislation update.

Executive Director Penttinen updated the Board on the joint Health Committee of Reference hearing conducted on December 15, 2008. The Committee voted to recommend a two-year sunrise. Ms. Penttinen met with Representative Nancy Barto who has agreed to sponsor the continuation bill. The date for the House review of the bill has not been scheduled yet; Rep. Barto's office will notify Ms. Penttinen when it is scheduled.

- b. Recommendations for investigation procedures.

Ms. Penttinen and the Board reviewed and discussed the new investigation procedures and forms presented by Ms. Penttinen. The new procedures include assigning a specific investigator for each complaint. Ms. Penttinen will be the investigator for conduct-related complaints and one of the physician Board members will be the investigator for quality of care and billing complaints on a rotating basis. Investigational interviews will no longer be conducted during Board meetings; they will be completed by the investigator assigned to the case prior to the Board's review of the case. If additional information is still needed at the time of the initial Board review and a decision cannot be reached, a request will be made for the licensee to appear for an informal interview or informal hearing at the next Board meeting. Each individual allegation in the complaint will be specifically addressed during the Board's review and decision.

- c. Update on procedures for publicly available complaint and disciplinary action information.

Ms. Penttinen and the Board reviewed the written procedure submitted by Ms. Penttinen outlining the steps which are being taken to update the database with previous and future complaint and disciplinary action. The procedure starts with completion of updates for all complaints received in 2008 which have been completed and working backward one year at a time. This will be completed by contracted staff Dee Doyle. Current open complaints and future complaints will be updated in the database by Ms. Penttinen. Ms. Doyle informed the Board that she has completed one and a half years of updates.

**G. CALL TO THE PUBLIC**

No public members were present during the Call To The Public.

**H. FUTURE AGENDA ITEMS.**

Vacant

**ADJORNMENT**

There being no further business before the Board, the meeting was adjourned at [1:15 p.m.](#)

**NOTE: Next Meeting Date: February 11, 2009**