



Janet Napolitano
Governor

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

1400 W. Washington, Ste. 230, Phoenix, AZ 85007; (602) 542-3095; Fax: 542-3093
Barry Kaplan, DPM; Joseph Leonetti, DPM; Dedrie Polakof, DPM; Paula Hollins, Public Member;
Jeanne Reagan, Public Member, Dee Doyle, Executive Director

REGULAR SESSION MINUTES
Board Meeting

November 12, 2008 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: Dee Doyle, Executive Director

A. CALL TO ORDER

The scheduled meeting of the Arizona State Board of Podiatry Examiners was called to order at 8:30 A.M., Dr. Polakof presiding.

B. ROLL CALL

Dr. Polakof, President called the roll and all board members were present.

C. 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) (1) (to discuss personnel matters) § 38-431.03 (A) (2) (to discuss confidential information) and § 38-431.03 (A) (3) (to receive legal advice).

1. Executive Director Candidate Interviews

MOTION: Dr. Polakof moved to go into executive session to discuss personnel and confidential matters, Dr. Leonetti seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no

The Board convened executive session at 8:30 am.

The Board convened regular session at 9:28 am

- a. Laura Boden
- b. Sonja Bolf
- c. Patricia Keith
- d. Buck Forest
- e. Sarah Penttinen

MOTION: Dr. Polakof moved to go into executive session to discuss personnel and confidential matters, Dr. Leonetti seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no

The Board convened executive session at 9:28 am.

The Board convened regular session at 9:40 am

2. Review, Discussion and Possible Selection of Executive Director

MOTION: Dr. Polakof moved to offer Sarah Penttinen the position of Executive Director with a beginning salary of \$52,000; this will be after the approval to hire has been given by Arizona Department of Administration for the critical position during the hiring freeze. Dr. Kaplan seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no

D. APPROVAL OF MINUTES

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. October 8, 2008 Regular Board Meeting Minutes

MOTION: Dr. Kaplan moved to approve the October 8, 2008 regular session minutes, Ms. Reagan seconded the motion.

VOTE: The Motion Passed unanimously 5 yes, 0 no

2. October 8, 2008 Executive Session Minutes

MOTION: Dr. Polakof moved to approve the October 8, 2008 executive session minutes, Ms. Hollins seconded the motion.

VOTE: The Motion Passed unanimously 5 yes, 0 no

3. October 27, 2008 Teleconference Board Meeting Minutes

MOTION: Dr. Polakof moved to approve the October 28, 2008 teleconference Board meeting minutes, Ms. Hollins seconded the motion.

VOTE: The Motion Passed unanimously 5 yes, 0 no

E. REVIEW, DISCUSSION AND POSSIBLE ACTION ON REGULATORY MATTERS.

Pursuant to A.R.S. § 32-852.01 the Board will conduct an Investigate The board on its own motion may investigate any evidence which appears to show that a podiatrist is or may be guilty of a violation of Section 32-852. 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. **INVESTIGATIVE INTERVIEW**

a) **08-21-C SERJIK NAZARIAN – Investigative Interview, 9:30 a.m.** X-rays received

Serjik Nazarian was present for the investigative interview and he was not represented by an attorney.

The Board is in receipt of a complaint filed against Serjik Nazarian, DPM initiated by patient R.H. The Board is in receipt of the doctor's written response, and the x-rays with the patient medical records.

The complainant was present at the board meeting and addressed the board regarding her complaint; she alleges failure to diagnose an infection in time and that Dr. Nazarian failed to wear gloves when he examined her infected wound. R.H. had to be admitted into the hospital for IV antibiotics that has caused side effects and a lot of pain. If she had been diagnosed with the disease sooner she wouldn't have had to go through the rehabilitation for over a year. She had reactions to two different antibiotics she was on IV therapy everyday and then oral after infection cleared.

Dr. Kaplan asked Dr. Nazarian questions regarding his medical dictation on the record. Dr. Nazarian responded.

Dr. Leonetti asked Dr. Nazarian questions regarding his records op report describing what was done but Dr. Nazarian's billing shows other wise, report doesn't show what he did. When dictating a report must be specific such as; removed scare tissue, etc. Op report is confusing and misleading compared to what the charges indicate it was for neroma only. They state a culture was taken in the office but the records indicate it was done at the hospital.

Dr. Nazarian stated he refused to perform surgery on a patient because she was too high of a risk; she has had several multi-surgeries preformed. Because of the MRSA outbreak he wanted to make sure his office was free from the disease.

MOTION: Dr. Polakof moved to go into executive session to obtain legal advice. Dr. Kaplan seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no

The Board convened Executive Session at 10:45 am
The Board returned to Regular Session at 10:50 am

Following discussion:

MOTION: Dr. Leonetti proposed to offer Dr. Nazarian a consent agreement in lieu of taking this matter to an Informal Hearing the consent will include taking a course in record keeping and clinical judgment, extend his probation for an additional six months and take hands on course in surgical training within six months. This course must be approved by the Board and will be in addition to the regular continuing medical education courses required for renewal of his license. Dr. Polakof seconded the motion.

Dr. Nazarian said he needed his attorney present and that the issue of his record keeping has been corrected since his probation started on the other case.

VOTE: The Motion passed unanimously 5 yes, 0 no

b) **08-22-C MICHAEL SEKOSKY – Investigative Interview, 9:30 a.m.** X-Rays received –
CONTINUANCE granted until December 10, 2008

c) **MICHAEL PORTER – non license DPM continued until November 12 board meeting -
Investigative Interview, 9:30 a.m.**

Michael Porter was present at the board meeting to answer questions by the Board. Michael Porter is not licensed to practice podiatry in Arizona. Therefore a complaint number against his previous license cannot be issued. Michael Porter told the Board he has taken his advertisement out of the phone book, he has not given out business cards for years and he has changed his billing invoices and taken off DPM.

Michael Porter is certified as nail specialist through the Cosmetology Board and if further complaints come in they are to be referred to that board.

e) **08-29-C H. WILLIAM REESE – Investigative Interview, 9:30 a.m.** X-rays received

H. William Reese was present at the Investigative Interview with his attorney Bruce Crawford. Mr. Crawford clarified the information sent to the Board regarding the pain pump that was declined by the patient C.L. initially, and then accepted

The Board is in receipt of a complaint initiated by C.L. who was present at the meeting. His complaint was for the treatment and failure to do a complete vascular test before doing surgery on his foot. C.L. also stated his toe turned very black and he noticed it when the bandage was removed, he asked, Dr. Reese about his black toe, an Dr. Reese didn't say anything about the color of his toe. C.L. saw a vascular specialist who diagnosed his toe of having gangrene. He was immediately admitted into the hospital for IV therapy, he had to continue IV injections everyday. There was talk of amputation of his foot. After the IV injections the infection cleared up. His concern is why Dr. Reese did not diagnose the gangrene in his toe in the first place, and why no vascular exams were ordered.

The Board asked questions of Dr. Reese regarding his procedure, on this patient. Dr. Reese responded to the Boards questions.

Following discussion the Board determined that no violation of Arizona State Revised Statutes was found.

MOTION: Dr. Polakof moved to dismiss the complaint finding no apparent violation of the Arizona Revised Statutes governing the practice of podiatry. Ms. Reagan seconded the motion.

VOTE: The motion passed 5 yes, 0 no

f) **08-33-C KATHLEEN RICHARDS – Investigative Interview, 9:30 a.m.** X-rays received Kathleen Richards was present at the Investigative Interview with her attorney Bruce Crawford.

The Board is in receipt of a complaint initiated by V.P. daughter to patient E.J.. The complaint was for not being able to obtain copies of the medical records for her mother.

The Board asked Dr. Richards about the medical records and she stated the daughter of the patient called requesting her mothers medical records and said she held a medical power of attorney for her mother, the office requested a copy of the power of attorney to release the records. A couple weeks later V.P. and E.J. went to the office and at that time E.J. signed a release for her medical records. They were sent to the patient a week later.

MOTION: Dr. Polakof moved to dismiss the complaint finding no apparent violation of the Arizona Revised Statutes governing the practice of podiatry. Ms. Reagan seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no.

2. OPEN COMPLAINTS

a) **08-24-C MICHAEL SEKOSKY** – additional records requested

MOTION: Dr. Leonetti moved to have Michael Sekosky come to the December 10, 2008 board meeting for an investigative interview. Ms. Reagan seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no.

b) **08-31-C APRAJITA NAKRA** – Review additional records requested

The Board is in receipt of a complaint filed against Aprajita Nakra, DPM initiated by patient N.H. The patient alleges standard of care and treatment regarding surgery.

The Board reviewed the records sent by Aprajita Nakra and found they were not complete. Additional records were requested and received.

MOTION: Dr. Polakof moved to have Dr. Nakra attend the January Board meeting for an Investigative Interview. Dr. Leonetti seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no.

3. INITIAL REVIEW

a) **08-35-M GLENN NELSON** –Board Review, Insurance claim –Records and x-rays received

The Board is in receipt of a malpractice filed against Glenn Nelson, DPM.

The Board reviewed the records sent by Glenn Nelson and found they were not complete. Additional records are to be requested and brought to the investigative interview.

MOTION: Dr. Polakof moved to have Dr. Nelson attend the January Board meeting for an Investigative Interview and to bring the x-rays from 8/13 and the complete billing records. Dr. Kaplan seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no.

b) **08-36-C JAMES WILSON** – Board Review – response received no x-rays

The Board is in receipt of a complaint filed against James Wilson, DPM initiated by K.B. for her husband M.B. The patient alleges standard of care and treatment regarding surgery. K.B. alleges that Dr. Wilson created a deeper wound on M.B. left ankle every week at his appointments he cut deeper and scraped bone. Dr. Wilson stated an additional surgery needed to be done to heal the wound. M.B. got a fungus infection that further complicated the healing process. Dr. Wilson still insists that additional surgery needs to be done to heal the wound. Her husband has been out of work for over a year because of the problems he has encountered.

MOTION: Dr. Polakof moved to have Dr. Wilson attend the January Board meeting for an Investigative Interview for irregular coding and bring the patient file. Dr. Leonetti seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no.

c) **08-39-M SCOTT MALING** – Board Review, Insurance claim response received same as Jason Harrill, DPM

The Board is in receipt of a malpractice filed against Scott Maling, DPM. The Board reviewed the records sent by Dr. Maling.

This matter was TABLED and the Board instructed staff to contact the attorney of this case to send updates on the status.

d) **08-40-M JASON HARRILL** – Board Review, Insurance claim response received same as Dr. Maling

The Board is in receipt of a malpractice filed against Jason Harrill, DPM. The Board reviewed the records sent by Dr. Harrill.

This matter was TABLED and the Board instructed staff to contact the attorney of this case to send updates on the status.

4. **STATUS UPDATES – no board action information only**

a) **06-22-M ANDREW LOWY**- in litigation, update received

This case was TABLED; a letter from Bruce Crawford, Attorney was received indicating this case is still in litigation.

b) **07-28-C KENT PETERSON** – monthly report update received

This case was TABLED; a letter from Edwin Gains, Attorney was received indicating this case is still being deliberated.

c) **08-34-C STANTON COHEN** – next quarterly report update due January 14, 09

This case was TABLED; a status letter from Bruce Crawford, Attorney was received in September 2008. The next quarterly status update is due in January 2009.

5. **PROBATIONARY STATUS REPORTS**

a) **07-32-B SERJIK NAZARIAN** – no surgeries done this month

Dr. Nazarian had no surgeries files to review for October. Dr. Nazarian submitted a letter requesting early dismissal from his probation.

The Board reviewed Dr. Nazarian request.

MOTION: Dr. Leonetti moved to deny Serjik Nazarian, request for early release from his probation. Dr. Polakof seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no

b) **06-04-C ALAN GAVECK** – update – No surgery in October

Bruce Crawford, Attorney to Dr. Gaveck sent a letter indicating no surgeries were done in October and requested information on where Dr. Gaveck can obtain the required continuing medical education (CME) for his consent.

The Board instructed staff to send a letter to Bruce Crawford too contact the Arizona or American Podiatric Medical Associations to obtain information for CME.

6. OPEN A BOARD COMPLAINT

- a) **08-30-C GEORGE THOMPSON** – open a complaint case for non-compliance to board issued subpoena

The Board opened a complaint on George Thompson, DPM for non-compliance to a Board issued subpoena to obtain the medical records for case 08-30-C.

MOTION: Dr. Polakof moved this matter to an Informal Hearing at the January 14, 2009 board meeting for non-compliance to a Board issued subpoena.

VOTE: The motion passed unanimously 5 yes, 0 no

- b) **08-17-B GEORGE THOMPSON** – open a complaint case for non-compliance to board order to pay a civil penalty was due October 11, 2008.

The Board opened a complaint on George Thompson, DPM for non-compliance to the Decree of Censure and civil penalty issued in July 2008, on case 08-17-B for non-compliance to a Board Order to under go a psychiatric evaluation and non-compliance to a Board issued subpoena. The \$200.00 civil penalty was due within ninety days from the date of the Decree of Censure which was October 11, 2008 the penalty has not been received.

MOTION: Dr. Polakof moved this matter to an Informal Hearing at the January 14, 2009 board meeting for non-compliance to pay a civil penalty as stated in the Findings of Fact, Conclusions of Law and Order dated July 11, 2008.

VOTE: The motion passed unanimously 5 yes, 0 no

F. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION OF APPLICATIONS FOR THE DECEMBER 2, 2008 EXAM.

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).

Buitrago, Maria Pipher, Mark
Clark, Janice

MOTION: Dr. Polakof moved to approve the applicants listed above to take the December 2, 2008 exam, Dr. Kaplan seconded the motion.

VOTE: The motion passed 5 yes, 0 no

G. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION ON CORRESPONDENCE –

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. Licensure for fellowship program – Dr. Armstrong in Tucson
 - a. Board is receiving request for information on how to handle the fellowship program at the University of Arizona in Tucson

H. 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. Executive Director up date report –
 - i. Conflicting date of Board meeting on November 11, 2009 change to November 12 and obtain B2 if available.

- ii. Discussion on board response to upcoming Health Committee meeting proposed date set for November 18 or 19, 2008
- iii. Draft investigative report
- iv. Draft Board Action Sheet
- v. Consolidation – position update
- vi. Budget cut back
- vii. Misc.

Ms. Doyle Executive Director gave the Board an update on i through vii. The Board meeting for November 11, 2009 will be changed to November 12 because of Veterans Day which is a state holiday.

Proposed dates are being discussed for the upcoming Health Committee meeting for early December.

The Board is reviewing a draft investigative report and the Board Action Sheet on complaints.

The Board discussed the governor's proposal to consolidate several smaller regulatory boards.

I. CALL TO THE PUBLIC

Citizens who want to address the Board do not need to request permission in advance, but they do need to complete a "Citizen's Request to Speak to the Board" form so that the Board is aware that they are here and that they want to speak to the Board. Each person who wants to address the Board will be given five (5) minutes to do so. However, the Board may limit the number of persons speaking on each issue to a reasonable number of persons. Pursuant to A.R.S. § 38-431.02(H), the Board can discuss or take action ONLY on matters that are listed on the Agenda. Board action on issues that are not listed on the Agenda is limited to directing staff to study the matter or to schedule the matter for further discussion at a future Board Meeting.

No Public was present to address the Board.

J. 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: December 10, 2008 Exam December 2, 2008

Respectfully submitted,

Dee Doyle
Executive Director

APPROVED:
Dedrie Polakof, DPM
Board President