



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

December 10, 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 8:35 A.M., Dr. Polakof presiding.

B. ROLL CALL

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

C. 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. November 12, 2008 Regular Board Meeting Minutes

MOTION: Dr. Kaplan moved to approve the November 12, 2008 regular session minutes, Ms. Reagan seconded the motion.

VOTE: The Motion Passed unanimously 5 yes, 0 no

- 2. November 12, 2008 Executive Session Minutes

MOTION: Dr. Kaplan moved to approve the November 12, 2008 executive session minutes, Dr. Leonetti seconded the motion.

VOTE: The Motion Passed unanimously 5 yes, 0 no

D. 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. INFORMAL INTERVIEW

The informal interview for George Thompson was scheduled for 8:30 a.m. Dr. Thompson was not present; the Board started the proceedings at 8:40 a.m. A court reporter was present from Griffin and Associates was present and the complainant K.M. for case 07-36-B was present to testify.

- a) 06-11-C GEORGE N. THOMPSON – Informal Hearing 8:30 a.m.

- d) 06-28-C GEORGE N. THOMPSON - **Informal Hearing 8:30 a.m.**
- c) 07-36-B GEORGE N. THOMPSON – **Informal Hearing 8:30 a.m.**
- d) 08-30-C GEORGE N. THOMPSON – **Informal Hearing 8:30 a.m.**

MOTION: Dr. Polakof moved to send cases 06-11-C, 06-28-C, 07-36-B and 08-30-C to a formal hearing for non-compliance to the Office of Administrative Hearings. Ms. Reagan seconded the motion.

VOTE: The motion passed unanimously by a roll call vote, Ms. Hollins, Ms. Reagan, Dr. Leonetti, Dr. Kaplan and Dr. Polakof voted yes, 0 no.

George Thompson arrived to the meeting at 8:55 a.m. and wanted to proceed with his informal hearing, the Board informed him the interviews were scheduled for 8:30 a.m. and he was not present. The Board moved The cases to a Formal Hearing and he would be receiving a notice of hearing for these matters.

4. OPEN COMPLAINTS

- a) 05-27-M ELAINE J. SHAPIRO – litigation completed – Kevin Nichols attorney to Dr. Shapiro requested a continuance until the January 14, 2009 board meeting due to a conflict with scheduling with Dr. Shapiro and his office. A continuance was granted.
- b) 08-12-C ELAINE SHAPIRO – Tabled pending investigation info requested subpoena sent no updated information has been received

The Board instructed staff to re-issue a new subpoena for an update on the pending investigation with the corrected dates.

- c) 08-03-C ELAINE SHAPIRO – Quarterly report due at the January 14, 2009 board meeting.

3. INITIAL REVIEW

- a) 08-37-C BRUCE WERBER – review records received no x-rays

The Board received a complaint from __ a patient of Dr. Werber regarding not receiving additional pain medication for his condition.

The Board reviewed the medical records sent by Dr. Werber.

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

VOTE: The motion passed 5 yes, 0 no

- b) 08-38-C CLARK FULLMER – review records received no x-rays

The Board received a complain against Dr. Fullmer from his patient M.K. alleging practice below the standard of care and treatment after surgery.

Dr. Fullmer sent a response to the Board stating he is no longer affiliated with Arizona Institute of Foot Care.

After discussion the Board instructed staff to obtain the following:

1. Subpoena AZ Institute of Foot Care for the records from this patient, MRI, X- rays and complete medical chart to include billing records and consent form.

5. STATUS UPDATES – no board action information only

- a) 06-22-M ANDREW LOWY- in litigation,

This matter was Tabled nothing new was reported.

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

This matter was Tabled nothing new was reported.

6. PROBATIONARY STATUS REPORTS

a) 07-32-B SERJIK NAZARIAN – monthly review of records for consent agreement
Dr. Nazarian had no surgeries this month for the Board to review.

b) 06-04-C ALAN GAVECK – monthly report update
Dr. Gaveck performed no surgical procedures during the month of November 2008.

E. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION ON CORRESPONDENCE -

1. Discussion on program information from Banner Health if they need a license or not to participate in a surgical training program. Would this include foreign podiatrist as well?
The Board discussed the program above that Banner Health called the Board about; the program would have to be an approved Fellowship program through the National Podiatric Medical Association unless it was just a weekend continuing medical education program. If the program was not approved by the method stated the doctors would have to obtain a state license to practice in Arizona.

2. National Board of Podiatric Medical Examiners authorities to accept Part III
The Board approved and signed the agreement with the National Board of Podiatric Medical Examiners to authorize them to accept Part III of the written exam and to notify the board after the exam is taken.

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. Executive Director up date report –

i. Health Committee Meeting set for December 15, 2008

The Committee of Reference will hear the sunset audit recommendation on December 15, 2008 at 10:00 a.m.
Dr. Polakof, Dr. Leonetti and Ms. Reagan will be attending the hearing with Dee Doyle, Executive Director.

ii. Personal matters – executive director position

MOTION: Dr. Kaplan moved to approve the requested salary for Sarah Penttinen of \$56,650 effective December 16, 2008, Dr. Polakof seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no

iii. Contract agreement

MOTION: Dr. Polakof moved to approve the contract agreement with Dee Doyle and the Board, Dr. Kaplan seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no

iv. Misc.

Ms. Doyle, informed the Board of the consolidation issue and the proposed decrees in appropriated funds proposed by the Office of Strategic Planning and Budget.

The Board recessed at 9:25 a.m.

The Board resumed regular session at 9:55 a.m.

2. INVESTIGATIVE INTERVIEW

a) 08-18-C DAVID LAURINO – **Investigative Interview, 10:00 a.m.**

Dr. Laurino was present for the investigative interview and represented by his attorney Bruce Crawford.

The twenty patient medical records were received in the board office and reviewed by Dr. Polakof as the investigator. The records are missing the patient information sheet, for insurance and medical history and no billing records or consent form was not in the files. The records were lacking specific information on the patients the reports were too canned all appeared similar in nature. There are irregularities in coding such as the code for a consult.

Following discussion the Board instructed staff to subpoena records:

1. Dr. Su for coding irregularities for June, July and August of 2007
2. Billing records from Dr. Su billing company for all codes used in the past 12 months, using codes for soft tissue procedure on all patients.

MOTION: Dr. Leonetti moved to open a complaint against Dr. Su for billing irregularities on patients H.G. and K.G. Dr. Kaplan seconded the motion.

VOTE: The motion passed unanimously 5 yes, 0 no

Dr. Polakof recommended the use of the American Medical Association coding books for accurate coding information, the main concern in review of the twenty cases was the unbundling and no modifiers were used. The Doctor is responsible for coding on his billing not the billing company or staff.

Dr. Leonetti recommended the Board issue Dr. Laurino a consent agreement to include board concern in lieu of moving this case to an Informal Hearing, according to A.R.S. 32-854.01 (23) unprofessional conduct - Charging or collecting a clearly excessive fee. And A.R.S. 32-854.01 (9) 9. Failing to obtain written informed consent from a patient before the licensee performs of any surgical procedure on the patient.

MOTION: Dr. Polakof moved to issue Dr. Laurino a consent agreement to include one year probation, monthly review of billing statements for coding, additional 25 hours of continuing medical education in a certified course on coding and office billing standards such as the AMA or Medicare or Blue Cross Blue Shield courses are available at a local medical office. Dr. Kaplan seconded the motion and added all charts and billing with the codes listed on the investigative report.

VOTE: The motion was passed by a roll call vote, Ms. Hollins, Ms. Reagan, Dr. Leonetti, and Dr. Kaplan voted yes, 0 no, Dr. Polakof abstained.

b) 08-22-C MICHAEL SEKOSKY – **Investigative Interview, 10:00 a.m.**

Dr. Leonetti recuses himself from this case as he was also a treating physician for this patient.

Dr. Sekosky was present and represented by his attorney Bruce Crawford. The Board is in receipt of a complaint filed against Michael Sekosky, DPM initiated by patient A.K. The Board is in receipt of the doctor's written response, and the x-rays with the patient medical records.

The complainant was not present at the board meeting but she sent in additional information for the Board to review. She had surgery on a hammer toe and Dr. Sekosky took too much bone and she now cannot lay her toes flat on the floor. She returned the orthotics to Dr. Sekosky office and asked for her x-rays but he wouldn't release her x-rays to her.

Dr. Sekosky summarized the medical history for his patient A.K. for the Board. The patient did not follow-up with the recommended treatment.

The Board asked Dr. Leonetti questions regarding his experience with the patient.

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

VOTE: The motion passed unanimously 5 yes, 0 no

c) 08-24-C MICHAEL SEKOSKY – **Investigative Interview, 10:00 a.m.**

Dr. Sekosky was present and represented by his attorney Bruce Crawford. The Board is in receipt of a complaint filed against Michael Sekosky, DPM initiated by patient L.C. The patient alleges practice below standard of care and treatment.

Dr. Sekosky summarized this case for the Board.

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

VOTE: The motion passed unanimously 5 yes, 0 no

G. 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.

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: January 14, 2009

Respectfully submitted,

Sarah Penttinen
Executive Director

APPROVED:
Dedrie Polakof, DPM
Board President