



Douglas A. Ducey,
Governor

Arizona State Board of Podiatry Examiners

“Protecting the Public’s Health”

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OPEN SESSION MINUTES

November 17, 2020

Members of the Arizona State Board of Podiatry Examiners (“Board”) held a meeting at 8:30 a.m. on Tuesday, November 17, 2020, at 1740 West Adams St., Boardroom A, Phoenix, Arizona 85007. One Executive Session was held.

BOARD MEMBERS PRESENT:

- Barbara Campbell, DPM..... Board President and Practitioner Member
- John Rhodes Secretary and Public Member
- Albert Eulano, DPM. Practitioner Member
- Mark Forman, DPM.....Practitioner Member
- Vacancy.....Public Member

STAFF AND ASSISTANT ATTORNEY GENERAL PRESENT:

- Heather Broaddus..... Executive Director
- Seamus Monaghan, Esq.....Assistant Attorney General

GUEST(S) PRESENT AND/OR PARTICIPATING

- Erika Huston, DPM.....Licensee
- Bruce Crawford, Esq.....Attorney
- Lewis Freed, DPM.....Licensee
- D.R.....Complainant
- Mark Rosales, DPM.....Licensee
- Kenneth Moskow, Esq.....Attorney
- Kim Evans.....Public Participant
- Allison Rottman, DPM.....Licensee
- Elizabeth Petersen, Esq.....Attorney
- Seth Clark, DPM.....Licensee
- T.F.....Complainant
- Patrick Farrell, DPM.....Licensee
- Mary Peters, DPM.....Licensee
- Alan Discont, DPM.....Licensee
- Joe Abate.....Public Participant
- Dedrie Polakof, DPM.....Investigator
- Jerome Steck, DPM.....Investigator
- Daniel Saunders, DPM.....Investigator
- Appeared telephonically

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OPEN SESSION

Dr. Campbell called the meeting to order at 8:33 a.m. The Board considered the following order of business.

DECLARATION OF CONFLICTS OF INTEREST – A.R.S. § 38-503

There were no declarations of conflicts of interest.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

REVIEW, DISCUSSION AND POSSIBLE ACTION ON BOARD MEETING MINUTES

Discussion and approval of the Open Session Minutes from the October 21, 2020, Board meeting

After review, Dr. Campbell made a motion, seconded by Dr. Forman, to approve the October 21, 2020, Open Session Minutes as drafted. The motion carried unanimously, 4-0.

	Dr. Campbell	Dr. Eulano	Dr. Forman	Mr. Rhodes	VACANCY
Yay	X	X	X	X	
Nay					
Recused					
Abstained					
Absent					

Issuance of Licenses

2. Derner, Brian, DPM

Upon review of Dr. Derner’s application, the Board noted that he will complete his residency program in June of 2021 otherwise his application meets requirements of statute and rule. After review, Dr. Campbell made a motion, seconded by Dr. Forman, to approve Dr. Derner’s application upon successful completion of his residency program and payment of the license issuance fee. The motion carried unanimously, 4-0.

	Dr. Campbell	Dr. Eulano	Dr. Forman	Mr. Rhodes	VACANCY
Yay	X	X	X	X	
Nay					
Recused					
Abstained					
Absent					

TIMED ITEM

Informal Hearing; Complaint No. 20-04-C; Erika Huston, DPM

Dr. Campbell summarized Informal Hearing procedures and detailed the allegations against Dr. Huston. Dr. Huston was present telephonically and her attorney, Bruce Crawford, Esq., was present. Lewis Freed, DPM was present on behalf of Dr. Huston. Board members and staff introduced themselves. Dr. Campbell confirmed that Huston has read the materials.

The Board’s Investigator, Dedrie Polakof, DPM, was present telephonically and provided a summary of the Complaint to the Board. Board members questioned Dr. Polakof. Mr. Crawford asked Dr. Polakof questions. Dr. Polakof, through the Board Chair, indicated that she is not comfortable answering Mr. Crawford’s questions, as the questions posed do not pertain to her report. Dr. Polakof stated factually that this is not a Formal Hearing, therefore, she is only obliged to answer questions that pertain to her report. Dr. Campbell asked Mr. Crawford to ask Dr. Polakof questions that pertain to the conclusions in her report.

At 9:04 a.m. Dr. Campbell made a motion to go into Executive Session to obtain confidential legal advice from the Board’s attorney. Mr. Rhodes seconded the motion. Open session reconvened at 9:22 a.m.

	Dr. Campbell	Dr. Eulano	Dr. Forman	Mr. Rhodes	VACANCY
Yay	X	X	X	X	
Nay					
Recused					
Abstained					
Absent					

Dr. Campbell addressed Mr. Crawford and explained the Informal Hearing procedures. Dr. Campbell asked Mr. Crawford if he wished to proceed with the process. Dr. Campbell indicated that if he did not wish to proceed with the process then this matter will be moved to a Formal Hearing. Mr. Crawford indicated that he would like to speak with Dr. Huston and asked for time to consult with her. Dr. Campbell agreed to move to another agenda item in order for Mr. Crawford to consult with Dr. Huston. The Board moved to untimed agenda items to allow Mr. Crawford time to consult with Dr. Huston.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Investigations

20-15-C; Mark Rosales, DPM

The Board’s Investigator, Dr. Polakof, was present telephonically and provided a summary to the Board.

The Complainant was not present. Dr. Rosales and his attorney, Kenneth Moskow, Esq., were present telephonically, requested to speak, made statements and answered Board members' questions. Additionally, Dr. Rosales' billing employee, Kim Evans, was present to answer questions. Dr. Campbell asked Ms. Evans to explain the delay in billing. Ms. Evans answered. Board members expressed concerns with Dr. Rosales' billing practices. Board members noted that Dr. Rosales is currently under a non-disciplinary Consent Agreement for continuing education to address billing and coding procedures. After deliberation, Dr. Forman made a motion, seconded by Mr. Rhodes to dismiss Complaint No. 20-15-C as the Boards' concerns regarding billing and coding procedures are being addressed through the current non-disciplinary Consent Agreement for continuing education. The motion carried unanimously, 4-0 on a roll call vote.

	Dr. Campbell	Dr. Eulano	Dr. Forman	Mr. Rhodes	VACANCY
Yay	X	X	X	X	
Nay					
Recused					
Abstained					
Absent					

TIMED ITEM (continued)

Informal Hearing; Complaint No. 20-04-C; Erika Huston, DPM

Dr. Campbell confirmed with Mr. Crawford that he and Dr. Huston would proceed with the Informal Hearing. Dr. Campbell swore Dr. Huston in. Dr. Huston and her attorney, Bruce Crawford, Esq., requested to speak, made statements and answered Board members' questions. Dr. Huston confirmed that she did not address the vascular study with Complainant, D.R. Dr. Huston confirmed that she did refer D.R. to a vascular specialist. Dr. Huston addressed her billing in this matter. Dr. Huston opined that she provided D.R. with appropriate care. She confirmed that she has implemented procedures to address the Board's billing concerns. Mr. Crawford provided clarification regarding the timeline of D.R.'s care and addressed the vascular surgeon's report.

The Complainant, D.R., was present telephonically, requested to speak and made a statement. D.R. confirmed that he was referred to Dr. Huston by a nurse practitioner. D.R. affirmed that the nurse practitioner ordered the Doppler study. D.R. stated that he was referred to a vascular specialist and indicated that the vascular specialist was unaware of the Doppler study. D.R. provided clarification on the care of his wound.

Lewis Freed, DPM was present, requested to speak, made a statement and answered Board members' questions. Dr. Campbell acknowledged that the Board received and has read the letter that was submitted by Dr. Freed on behalf of Dr. Huston. Dr. Freed provided clarification on treating wounds. Dr. Freed opined that an arterial Doppler study is a very complicated test and opined that reading an arterial Doppler study is not within the scope of a podiatrist. He stated that

a vascular specialist is responsible for interpreting an arterial Doppler study. Dr. Freed opined that Dr. Huston’s care of the patient was appropriate and within the current standard of care. Board members’ asked Dr. Freed to opine on how smoking cigarettes could affect the healing of wounds. Dr. Freed answered.

Board members expressed concern with the lack of Dr. Huston’s follow up with the Doppler study. Board members acknowledged that Dr. Huston has completed continuing education on peripheral arterial disease. After deliberation, Dr. Campbell made a motion, seconded by Mr. Rhodes, to issue a Letter of Concern to Dr. Huston for concerns regarding the lack of follow up on the Doppler study and to issue a non-disciplinary Order for continuing education. Dr. Huston shall complete three hours of continuing education in peripheral arterial disease. The three hours of continuing education will be in addition to the required continuing education hours required for license renewal. The continuing education may be completed electronically and shall be completed within six months of the effective date of the non-disciplinary Order for continuing education. The motion carried unanimously, 4-0 on a roll call vote.

	Dr. Campbell	Dr. Eulano	Dr. Forman	Mr. Rhodes	VACANCY
Yay	X	X	X	X	
Nay					
Recused					
Abstained					
Absent					

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Investigations

20-16-C; Allison Rottman, DPM

The Board’s Investigator, Dr. Steck was present telephonically and provided a summary to the Board.

The Complainant was not present. Dr. Rottman and her attorney, Elizabeth Petersen, Esq., were present telephonically, requested to speak and Dr. Rottman made a statement. After deliberation, Dr. Campbell made a motion, seconded by Mr. Rhodes, to dismiss Complaint No. 20-16-C; Allison Rottman, DPM. The motion carried unanimously, 4-0 on a roll call vote.

	Dr. Campbell	Dr. Eulano	Dr. Forman	Mr. Rhodes	VACANCY
Yay	X	X	X	X	
Nay					
Recused					
Abstained					
Absent					

20-17-C; Seth Clark, DPM

The Board’s Investigator, Dr. Saunders was present telephonically and provided a summary to the Board.

The Complainant, T.F., was present telephonically, requested to speak, made a statement and answered Board members’ questions. Board members asked T.F. about her medical history prior to her patient relationship with Dr. Clark. T.F. answered. Board members asked T.F. about her incision. T.F. answered.

Dr. Clark was present telephonically and his attorney, Bruce Crawford, Esq., was present. Dr. Clark and Mr. Crawford requested to speak, made statements and answered Board members’ questions. Mr. Crawford stated that the Board has addressed documentation issues in this complaint through a prior Consent Agreement and chart audit in which Dr. Clark satisfactorily completed the terms. Dr. Clark provided clarification on his treatment of T.F. and explained his protocol for culturing wounds. Board members’ asked Dr. Clark if T.F. had divulged her medical history. Dr. Clark answered. Board members deliberated and noted discrepancies in the documentation that was submitted by the Complainant. Board members’ asked Dr. Clark to address the discrepancies in the documentation that was submitted. Dr. Clark indicated that he could not address the discrepancies. After deliberation, Dr. Campbell made a motion, seconded by Dr. Eulano, to continue Complaint No. 20-17-C; Seth Clark, DPM to a future meeting to obtain additional information/documentation. The motion carried unanimously, 4-0 on a roll call vote.

	Dr. Campbell	Dr. Eulano	Dr. Forman	Mr. Rhodes	VACANCY
Yay	X	X	X	X	
Nay					
Recused					
Abstained					
Absent					

Update of Investigator’s Review of Audit Report; Complaint No. 18-08-C; Patrick Farrell, DPM

The Boards Investigator, Dedrie Polakof, DPM, was present and provided a summary of the audit to the Board. Dr. Farrell was present telephonically, requested to speak, made a statement and answered Board members’ questions. Board members noted that there is improvement in Dr. Farrell’s documentation. Board members’ expressed concern that Dr. Farrell performed a breast exam on the patient. Board members cautioned Dr. Farrell that performing breast exams might be outside of the scope of practice for a podiatrist. After deliberation, it was the consensus of the Board to continue the audit for at least two more cases. The Board requested that Dr. Farrell continue to keep the Board updated with nerve decompression procedures that he performs.

Issuance of Licenses

1. Splichal, Emily, DPM

Upon review of Dr. Splichal’s application, the Board noted that her application meets requirements of statute and rule. After review, Dr. Campbell made a motion, seconded by Mr. Rhodes, to approve Dr. Splichal’s application upon payment of the license issuance fee. The motion carried unanimously, 4-0.

	Dr. Campbell	Dr. Eulano	Dr. Forman	Mr. Rhodes	VACANCY
Yay	X	X	X	X	
Nay					
Recused					
Abstained					
Absent					

Complaint No. 17-14-C; Kevin O’Brien, DPM request to be released from probation

Dr. Campbell provided a summary stating that Dr. O’Brien is currently under a Consent Agreement and Order, which stipulates that he shall not perform certain procedures. Dr. O’Brien is requesting that he be released from the Consent Agreement and Order. Dr. O’Brien indicated in his correspondence that he will not be performing any surgical procedures for the remainder of his practice as a podiatrist. Dr. O’Brien was present telephonically, requested to speak, made a statement and answered Board members’ questions. Board members’ asked Dr. O’Brien to clarify why he is attesting that he will not perform any surgical procedures. Dr. O’Brien stated that he has not performed any surgical procedures in three years and has no desire to perform surgeries. Board members deliberated and noted that Dr. O’Brien has complied with the terms of the Consent Agreement and Order. After deliberation, Mr. Rhodes made a motion, seconded by Dr. Eulano, to release Dr. O’Brien from the terms of the Consent Agreement and Order. The motion carried unanimously, 4-0 on a roll call vote.

	Dr. Campbell	Dr. Eulano	Dr. Forman	Mr. Rhodes	VACANCY
Yay	X	X	X	X	
Nay					
Recused					
Abstained					
Absent					

Limited License Podiatric Radiology Certification for Medical Assistants

Ms. Broaddus provided a history of the dissolution of the Medical Radiation Technologists Board and how the dissolution affected podiatric medical assistant’s ability to perform x-rays. Ms. Broaddus provided a summary of other Arizona Boards definition of medical assistants. Members of the Arizona Podiatric Medical Association (AzPMA), Mary Peters, DPM, Alan

Discont, DPM, and Mr. Joe Abate, were present to speak on the matter. Ms. Peters clarified that it is the desire of the AzPMA that podiatric medical assistants be required to obtain continuing education. Dr. Discont and Mr. Abate expressed the need for the Board to define medical assistants in statute. Ms. Broaddus stated that a folder was opened for the podiatry Board Bill that was stalled last session. After deliberation, it was the consensus of the Board to continue this matter to the December Board meeting.

Billing Code Changes

Dr. Campbell provided a summary of the billing code changes that will take effect in January 2021. Dr. Campbell discussed how these changes will affect how the Board reviews complaints.

EXECUTIVE DIRECTOR’S REPORT

Ms. Broaddus provided an update on Katherine Kennedy, DPM, Complaint No. 20-07-C. Dr. Kennedy completed the terms of the non-disciplinary Order for continuing education.

Ms. Broaddus provided an update of the Budget and the Complaint log.

SUMMARY OF CURRENT EVENTS

There were no current events.

CALL TO THE PUBLIC

There was no call to the public.

DISCUSSION AND POSSIBLE ACTION ITEMS FOR FUTURE MEETING AGENDAS

Dr. Campbell made a motion, seconded by Mr. Rhodes, to continue the discussion on defining medical assistants in statute at its December Board meeting. The motion carried unanimously, 4-0.

	Dr. Campbell	Dr. Eulano	Dr. Forman	Mr. Rhodes	VACANCY
Yay	X	X	X	X	
Nay					
Recused					
Abstained					
Absent					

NEXT BOARD MEETING DATE

Wednesday, December 9, 2020 at 8:30 a.m.

ADJOURNMENT

A motion was made by Dr. Campbell, seconded by Mr. Rhodes, and passed unanimously, 4-0, to adjourn the meeting at 12:30 p.m.

	Dr. Campbell	Dr. Eulano	Dr. Forman	Mr. Rhodes	VACANCY
Yay	X	X	X	X	
Nay					
Recused					
Abstained					
Absent					