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Governor

Arizona State Board of
Podiatry Examiners
“Protecting the Public’s Health”

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OPEN SESSION MINUTES

November 9, 2016

Members of the Arizona State Board of Podiatry Examiners (“Board”) held a meeting at 8:36 a.m. on Wednesday, November 9, 2016 at the Board’s office in Suite B-1, 1400 West Washington Street, Phoenix, Arizona 85007. Executive sessions were held from 9:06 a.m. to 9:14 a.m., from 9:37 a.m. to 10:01 a.m., from 10:18 a.m. to 10:24 a.m. and from 10:44 a.m. to 10:55 a.m.

BOARD MEMBERS:

- Barbara Campbell, D.P.M..... Board President and Practitioner Member
- John Rhodes Secretary and Public Member
- Barry Kaplan, D.P.M. Practitioner Member
- Joseph Leonetti, D.P.M..... Practitioner Member
- ☛ M. Elizabeth Miles..... Public Member
- ☛ Left at 11:36 a.m.

STAFF AND ASSISTANT ATTORNEYS GENERAL PRESENT:

- Ryan P. Edmonson..... Executive Director
- Frankie Shinn-Eckberg, Esq. Assistant Attorney General

GUESTS PRESENT AND/OR PARTICIPATING

- Joseph Knochel, DPM Respondent
- Richard Jacoby, DPM Respondent
- Bruce D. Crawford, Esq..... Respondents’ Attorney
- Kent Peterson, DPM Respondent

The meeting was called to order at 8:36 a.m. by Dr. Barbara Campbell. The following order of business was then considered:

OPEN SESSION

LEGISLATIVE UPDATE AND DISCUSSION

Amanda Rusing, Government Relations Associate from the Dorn Policy Group, Inc. and Joseph F. Abate, Esq., Lobbyist for the Arizona Podiatric Medical Association were present to provide the Board a summary of the proposed legislation of re-defining the scope of podiatry to include amputation. Ms. Rusing and Mr. Abate requested what the Board thought would be the best way to structure the bill. Ms. Rusing and Mr. Abate described that the bill does not currently have a legislative sponsor and also does not have any current opposition.

The Board discussed the simplification of the language amendment to A.R.S. § 32-801(9) & (10) of only striking the word “toe” and believed it leaves some ambiguity with regard to foot. Dr. Joseph Leonetti suggested that in order to remove some ambiguity that latter part of both references be amended from, “...but does not include amputation of the foot, toe or leg...” and should read more like, “...but does not include amputation of the leg or entire foot...”. The Board discussed placing this item on their December agenda to officially support the legislation to amend the scope of practice to include amputation.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Investigation Files

15-24-C; Knochel, Joseph, DPM

Dr. Joseph Knochel was present along with his legal counsel, Bruce D. Crawford. The complainant was not present. The Board discussed the complaint procedures regarding this complaint and the lack of opportunity that Dr. Knochel had to respond directly to the written allegations because he never received the written complaint until recently.

The Board discussed going into executive session to discuss confidential information and seek legal advice.

EXECUTIVE SESSION

A motion was made by Dr. Barry Kaplan, seconded by Dr. Barbara Campbell and passed unanimously to go into executive session at 9:06 a.m. to seek legal advice and discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2) & (3) regarding file no. 15-24-C.

After consideration in executive session, the Board reconvened in open session at 9:14 a.m.

OPEN SESSION

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Investigation Files

15-24-C; Knochel, Joseph, DPM

Dr. Joseph Knochel was again present along with his legal counsel, Bruce D. Crawford. The complainant was not present. The Board requested that Dr. Knochel now take the current opportunity to respond to the allegations of the complaint.

After discussion, a motion was made by John Rhodes, seconded by Dr. Barry Kaplan and passed unanimously to dismiss the case due to no violations of Board Statutes and Rules.

16-16-M; Jacoby, Richard, DPM

Dr. Richard Jacoby was present along with his legal counsel, Bruce D. Crawford. Mr. Crawford summarized the malpractice matter and described the settlement process. Mr. Crawford described that Dr. Jacoby, essentially was advised to settle the matter out of court for what he called the “cost of defense”.

After discussion, a motion was made by M. Elizabeth Miles, seconded by Dr. Barry Kaplan and passed unanimously to dismiss the case due to no violations of Board Statutes and Rules.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Response to Offered Interim Consent Agreement and Board Order

17-07-B; Wessel, Loren

Bruce D. Crawford, Esq was present on behalf of his client, Dr. Loren Wessel.

The Board discussed going into executive session to seek legal advice.

EXECUTIVE SESSION

A motion was made by Dr. Barry Kaplan, seconded by Dr. Barbara Campbell and passed unanimously to go into executive session at 9:37 a.m. to seek legal advice pursuant to A.R.S. § 38-431.03(A)(3) regarding file no. 17-07-C.

After consideration in executive session, the Board reconvened in open session at 10:01 a.m.

OPEN SESSION

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Response to Offered Interim Consent Agreement and Board Order

17-07-B; Wessel, Loren

Bruce D. Crawford, Esq was again present on behalf of his client, Dr. Loren Wessel. Mr. Crawford summarized the counter proposal. Mr. Crawford summarized Dr. Wessel’s current condition and his attendance in an outpatient program in Tucson and that he is currently considered 60 days sober. Mr. Crawford stated that Dr. Wessel is also undergoing random drug tests, but did not know the exact frequency of tests. Mr. Crawford also described Dr. Wessel’s motivation to address his issues and his issues before the Board and that Dr. Wessel understands that he will face some sort of discipline. The Board discussed, with Mr. Crawford, the current order prohibiting Dr. Wessel from prescribing Schedule IV Drugs.

After discussion, a motion was made by Dr. Barry Kaplan and seconded by M. Elizabeth Miles to offer the Consent Agreement as drafted and based on the counter proposal and grant the Assistant Attorney General limited authority to settle the matter.

During the discussion, and prior to the vote, Dr. Joseph Leonetti requested to go into executive session to seek legal advice, and therefore, the motion failed for lack of a vote.

EXECUTIVE SESSION

A motion was made by Dr. Joseph Leonetti, seconded by M. Elizabeth Miles and passed unanimously to go into executive session at 10:18 a.m. to seek legal advice pursuant to A.R.S. § 38-431.03(A)(3) regarding file no. 17-07-C.

After consideration in executive session, the Board reconvened in open session at 10:24 a.m.

OPEN SESSION

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Response to Offered Interim Consent Agreement and Board Order

17-07-B; Wessel, Loren

Bruce D. Crawford, Esq was again present on behalf of his client, Dr. Loren Wessel. The Board requested that Ryan Edmonson restate the motion made prior to going into executive session. Mr. Edmonson stated the Board motioned to offer the Consent Agreement as drafted and amended and give the Assistant Attorney General limited authority to settle.

Dr. Barry Kaplan reaffirmed his motion as read by Mr. Edmonson, M. Elizabeth Miles reaffirmed her second to the motion and the motion passed 5 – 0 by the following roll call vote:

Dr. Joseph Leonetti – Aye
Dr. Barbara Campbell – Aye
Dr. Barry Kaplan – Aye
M. Elizabeth Miles – Aye
John Rhodes – Aye

A motion was made by M. Elizabeth Miles, seconded by Dr. Barbara Campbell and passed unanimously to approve Dr. Oñate as Dr. Wessel’s substance abuse evaluator.

Mr. Crawford requested that the Board review the current Board Order for an evaluation. Mr. Crawford summarized the requirement of an evaluation to be accomplished by a certain date, which has already passed, and whether or not the Board is still requiring compliance with that order in light of its current motion to offer a new Consent Agreement.

A motion was made by M. Elizabeth Miles, seconded by Dr. Barbara Campbell and passed unanimously to extend the terms of the interim Board Order by 30 days unless Dr. Wessel signs the new Consent Agreement, then the interim Board Order would be quashed. The motion also included quashing the Consent Agreement that the Board voted to offer Dr. Wessel in its previous meeting based on the aforementioned motion to offer an amended Consent Agreement.

Lastly, the Board agreed that the outstanding subpoena for patient medical records is not currently necessary and if it those records are required to be viewed in the future that the Board will reissue a subpoena to Dr. Wessel.

The Board took a break from 10:34 a.m. to 10:43 a.m.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Investigation Files

15-06-C; Peterson, Kent, DPM

Dr. Kent Peterson was present. The complainant was not present.

The Board discussed going into executive session to seek legal advice.

EXECUTIVE SESSION

A motion was made by M. Elizabeth Miles, seconded by Dr. Joseph Leonetti and passed unanimously to go into executive session at 10:44 a.m. to seek legal advice pursuant to A.R.S. § 38-431.03(A)(3) regarding file no. 15-06-C.

After consideration in executive session, the Board reconvened in open session at 10:55 a.m.

OPEN SESSION

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Investigation Files

15-06-C; Peterson, Kent, DPM

Dr. Kent Peterson was again present. The complainant was not present. Dr. Peterson summarized his past billing procedures, the CME he has taken over the past year and what's changed in his current billing procedures. The Board questioned his past billing codes and whether or not he was paid on each code listed. Dr. Peterson answered stated that the insurance companies never paid him more than one billing code if there were two like codes.

Based on Dr. Peterson's testament that his billing practices have changed, a motion was made by M. Elizabeth Miles, seconded by Dr. Joseph Leonetti and passed unanimously to audit a random sample of Dr. Peterson's current patient billing charts from September 28, 2016 through November 9, 2016.

17-06-C; Peterson, Kent, DPM

Dr. Kent Peterson was present. The complainant was not present. Dr. Peterson summarized the complaint and answered the Board's questions regarding Dr. Peterson's treatment of the patient. The Board agreed that Dr. Peterson's documentation established that he billed for the treatment properly.

After discussion, a motion was made by M. Elizabeth Miles, seconded by John Rhodes and passed unanimously to dismiss the case due to no violations of Board Statutes and Rules.

REVIEW, DISCUSSION AND POSSIBLE ACTION ON BOARD MEETING MINUTES

Discussion and approval of the Open Session Minutes from the October 12, 2016 board meeting

The Board discussed reviewing the Open Session Minutes prior to M. Elizabeth Miles' absence from the meeting. The Board made an amendment to the October 12, 2016 Open Session Minutes.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Investigation Files

14-30-M; O'Brien, Kevin, DPM

Dr. Kevin O'Brien was not present. The Board reviewed the file and discussed all the mitigating injuries the patient had and determined there is no way of knowing for certain how much, if any, culpability should be attributed to Dr. O'Brien and his care of the patient.

M. Elizabeth Miles left the meeting at 11:36 a.m.

Due to a lack of quorum, the Board took a break from 11:37 a.m. to 11:39 a.m.

After the Board discussed the malpractice settlement, a motion was made by John Rhodes, seconded by Dr. Joseph Leonetti and passed unanimously to dismiss the case due to no violations of Board Statutes and Rules.

16-20-C; O'Brien, Kevin, DPM

Dr. Kevin O'Brien was not present. The complainant was also not present. The Board reviewed the file and discussed the patient's own care post her surgery. The Board agreed that the outcome may have turned out bad, but it does not appear to be the fault of Dr. O'Brien.

A motion was made by Dr. Joseph Leonetti, seconded by John Rhodes and passed unanimously to dismiss the case due to no violations of Board Statutes and Rules.

REVIEW, DISCUSSION AND POSSIBLE ACTION ON BOARD MEETING MINUTES

Discussion and approval of the Open Session Minutes from the October 12, 2016 board meeting

A motion was made by Dr. Barbara Campbell, seconded by Dr. Joseph Leonetti and passed unanimously to approve the Open Session Minutes from the October 12, 2016, board meeting as previously amended.

Dr. Barry Kaplan abstained and did not participate.

Discussion and approval of the Executive Session Minutes from the October 12, 2016 board meeting

A motion was made by Dr. Barbara Campbell, seconded by Dr. Joseph Leonetti and passed unanimously to approve the Executive Session Minutes from the October 12, 2016, board meeting as written.

Dr. Barry Kaplan abstained and did not participate.

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

Dr. Barry Kaplan declared a conflict with file no. 17-11-C; Brewer, Michael

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Application for Examination – A.R.S. § 32-822

Bland, Devin, DPM

Chrisman, Melissa, DPM

Hirschi, Jordan, DPM

Kimble, Brandi, DPM
Megorden, Laura, DPM
Patel, Naren, DPM
Seidenstricker, Chad, DPM

Application(s) for Registration to Dispense Drugs/Devices – A.A.C. R4-25-602

Nelson, Jacob, DPM

After review of the application, a motion was made by Dr. Joseph Leonetti, seconded by John Rhodes and passed unanimously to grant the applicant a registration to dispense drugs/devices.

Request for Approval of Continuing Medical Education (“CME”) and an Extension to Complete CME

13-02-C; Evans, Robert, DPM

After the Board reviewed Dr. Robert Evans’ CME request for an extension, a motion was made by Dr. Joseph Leonetti, seconded by John Rhodes and passed unanimously to extend the period that Dr. Evans must complete the ordered CME.

After the Board reviewed Dr. Evans’ request for the Board to pre-approve CME, a motion was made by Dr. Joseph Leonetti, seconded by Dr. Barbara Campbell to pre-approve of the courses submitted by Dr. Evans. The motion included that Dr. Evans provide certificates of completion within 30 days from the date of completion of the CME and for the courses that do not provide a certificate of completion that Dr. Evans create, sign and notarize an affidavit attesting to his completion of those courses. The affidavit can be separate for each course or consolidated, but detailed for multiple courses.

Investigator(s) for the Arizona State Board of Podiatry Examiners

Aung, Barbara, DPM

A motion was made Dr. Joseph Leonetti, seconded by John Rhodes and passed unanimously to approve you as one of its investigative consultants.

DiNucci, Kris, DPM

The Board tabled their review and approval until pending investigations are resolved.

EXECUTIVE DIRECTOR’S REPORT

The Board reviewed the budget, agency operations and complaint log with Ryan P. Edmonson.

SUMMARY OF CURRENT EVENTS

Frankie Shinn-Eckberg summarized a current email the Board’s office received from Dr. Burdick.

DISCUSSION AND POSSIBLE ACTION ITEMS TO BE PLACED ON FUTURE MEETING AGENDAS

None were discussed.

NEXT BOARD MEETING DATE

Wednesday, December 14, 2016 at 8:30 a.m.

CALL TO THE PUBLIC

No one from the public was present.

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

None were declared.

ADJOURNMENT

A motion was made by Dr. Barbara Campbell, seconded by Dr. Joseph Leonetti and passed unanimously to adjourn at 12:27 p.m.