



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

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Douglas A. Ducey,
 Governor

OPEN SESSION MINUTES

December 9, 2015

Members of the Arizona State Board of Podiatry Examiners (“Board”) held a meeting at 8:06 a.m. on Wednesday, December 9, 2015 at the Board’s office in Suite B-1, 1400 West Washington Street, Phoenix, Arizona 85007. Executive sessions were held from 8:07 a.m. to 8:31 a.m. and from 12:42 p.m. to 12:50 p.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, Esq..... Public Member

- ⌚ Arrived at 8:18 a.m. during the first executive session.
- × Absent

STAFF PRESENT:

- Ryan P. Edmonson..... Executive Director
- Frankie Shinn-Eckberg Assistant Attorney General
- Dee Doyle Administrative Assistant

GUESTS PRESENT AND/OR PARTICIPATING

- Mark D. Forman, D.P.M..... Board Investigator
- Kelvin S. Crezee, D.P.M..... Respondent
- Bruce B. Levin, D.P.M. Respondent
- Ike B. Gorman, D.P.M. Respondent
- Alan J. Discont, D.P.M. Respondent
- Bruce D. Crawford, Esq..... Respondents’ Attorney
- Daniel L. Bangart, D.P.M. Respondent
- M. Brent Peugnet, Esq. Respondent’s Attorney
- Michael H. Dershowitz, D.P.M. Respondent
- Kimberly Kent, RN, Esq..... Respondent’s Attorney
- Jerome A. Cohn, D.P.M..... Board Investigator
- Complainant..... Investigative Case 14-35-C
- Kevin Nicholas, Esq..... Respondent’s Attorney
- Complainant..... Investigative Case 15-02-C

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The meeting was called to order at 8:06 a.m. by Dr. Barbara Campbell. The following order of business was then considered:

OPEN SESSION

ADMINISTRATION OF EXAMINATION FOR LICENSURE AND POSSIBLE ACTION FOR ISSUANCE OF LICENCES FOR THE FOLLOWING APPLICANTS:

Black, Trevor;

Choe, Ki;

Espensen, Eric;

Flynn, Zachary;

Gillespie, Steven;

Janowicz, Rachel;

Plaskey, Nathan;

Mahmood, Sara;

Marquez, Allison; and

Nelson, Jacob.

The Board discussed going into executive session to discuss confidential information and administer the examination for licensure.

EXECUTIVE SESSION

A motion was made by Dr. Barbara Campbell, seconded by Dr. Barry Kaplan and passed 3 – 0 to go into executive session at 8:07 a.m. to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2) regarding the administration of the examination for licensure for the following applicants:

Black, Trevor;

Choe, Ki;

Espensen, Eric;

Flynn, Zachary;

Gillespie, Steven;

Janowicz, Rachel;

Plaskey, Nathan;

Mahmood, Sara;

Marquez, Allison; and

Nelson, Jacob.

Dr. Joseph Leonetti was not yet present and did not participate in the vote.

After consideration in executive session, the Board reconvened in open session at 8:31 a.m.

OPEN SESSION

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Investigation Files

14-32-C; Kelvin S. Crezee, D.P.M.

Dr. Kelvin S. Crezee was present along with his legal counsel, Bruce D. Crawford. The Complainant was not present. Dr. Mark D. Forman was present and provided a summary of his investigation.

After the Board discussed the matter and again, reviewed the x-rays, the MRI and asked questions of Dr. Crezee, a motion was made by Dr. Barry Kaplan, seconded by John Rhodes and passed unanimously to dismiss the case due to no violations of Board Statutes and Rules.

15-15-C; Daniel L. Bangart, D.P.M.

Dr. Daniel L. Bangart was present along with his legal counsel, M. Brent Peugnet. The Complainant was not present. Dr. Mark D. Forman was present and provided a summary of his investigation.

After the Board discussed the matter, asked questions of Dr. Bangart and confirmed that consent forms were signed by the complainant for all procedures, a motion was made by Dr. Barbara Campbell, seconded by Dr. Joseph Leonetti and passed unanimously to dismiss the case due to no violations of Board Statutes and Rules.

14-28-B; Michael H. Dershowitz, D.P.M.

Dr. Michael H. Dershowitz was present along with his legal counsel, Kimberly Kent. Dr. Mark D. Forman was present and provided a summary of his investigation.

After the Board discussed the matter, reviewed a subsequent opinion by Dr. Armstrong, which agreed with Dr. Dershowitz's conclusions and asked questions of Dr. Dershowitz, a motion was made by Dr. Barbara Campbell, seconded by Dr. Barry Kaplan and passed unanimously to dismiss the case due to no violations of Board Statutes and Rules.

15-16-C; Michael H. Dershowitz, D.P.M.

Dr. Michael H. Dershowitz was present along with his legal counsel, Kimberly Kent. The Complainant was not present. Dr. Jerome A. Cohn was present and provided a summary of his investigation.

After the Board discussed the matter, reviewed a copy of the Dr. Dershowitz's office layout and each examination room and asked questions of Dr. Dershowitz, a motion was made by Dr. Barbara Campbell, seconded by Dr. Barry Kaplan and passed unanimously to dismiss the case due to no violations of Board Statutes and Rules.

14-35-C; Michael H. Dershowitz, D.P.M.

Dr. Michael H. Dershowitz was present along with his legal counsel, Kimberly Kent. Dr. Jerome A. Cohn, on behalf of Dr. Dedrie Polakof, was present and provided a summary of Dr. Polakof's investigation. Ms. Kent provided some additional facts to provide clarity in which doctors the patient received care from since she went received care from three separate doctors regarding the same health condition. The Board asked several questions of Dr. Dershowitz relating to his record keeping and the off-site location where records are kept. The Complainant was present and described her experience and treatment of care under Dr. Dershowitz. She stated that she believed that she had an unnecessary surgery.

Due to Dr. Dershowitz's inability to provide proof that the third party vendor, who holds his patients' medical records, was at fault for the complainant's missing records, the Board elected to table the matter until their February 10, 2016 meeting to allow Dr. Dershowitz time to receive a signed affidavit of the third party vendor's error.

The Board took a break from 10:07 a.m. to 10:20 a.m.

15-02-C; Richard E. Quint, D.P.M.

Dr. Richard E. Quint was not present. He was, however, represented by his legal counsel, Kevin Nicholas. Dr. Jerome A. Cohn, on behalf of Dr. Dedrie Polakof, was present and provided a summary of Dr. Polakof's investigation. The Complainant was present to describe his experience and the Board asked him questions regarding his care, specifically the Board wanted to know if the complainant provided Dr. Quint or his office with a copy of his workman's compensation claim. The complainant responded that he had done so at his initial visit and that over the next two to three months all his phone calls, which was approximately 10, went unanswered. Mr. Nicholas provided Dr. Quint's perspective and the Board questioned him about his client's ability, or lack thereof, to respond to his patients. Mr. Nicholas requested that the Board postpone any action to allow for Dr. Quint to come before the Board to answer the Board's questions.

The Board elected to table the matter until a future meeting to allow Dr. Quint an opportunity to be present and answer the Board's questions.

15-11-C; Bruce B. Levin, D.P.M.

Dr. Bruce B. Levin was present along with his legal counsel, Bruce D. Crawford. The Complainant was not present. Dr. Jerome A. Cohn, on behalf of Dr. Dedrie Polakof, was present and provided a summary of Dr. Polakof's investigation. The Board and Dr. Levin discussed the number of injections given to Dr. Levin's patient and the infection the patient received. The Board did not assume that the infection was related to the injections, but believed the infection may have been related to an open ulceration that allowed bacteria and that the injections may have caused the ulceration due to a slow healing process.

After the Board discussed the matter and asked questions of Dr. Levin regarding his use of Lidocaine along with the steroid injections, a motion was made by Dr. Joseph Leonetti, seconded by Dr. Barry Kaplan and passed unanimously to issue a Letter of Concern for "the continued Cortisone injections in the presence of an open wound and that Cortisone injections should be discontinued when there are skin or tissue changes".

15-13-M; Ike B. Gorman, D.P.M.

Dr. Ike B. Gorman was present along with his legal counsel, Bruce D. Crawford. Mr. Crawford provided an update on the insurance claim and Dr. Gorman's response to his staff person's advice contrary to the office policies. Dr. Jerome A. Cohn, on behalf of Dr. Dedrie Polakof, was present and provided a summary of Dr. Polakof's investigation.

After the Board discussed the matter, 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 of Offer for a Consent Agreement
14-04-C; Alan J. Discont, D.P.M.

Dr. Alan J. Discont was present along with his legal counsel, Bruce D. Crawford. The Complainant was not present, however the Board did review her recent written comments. Mr. Crawford provided an update and summarized why he and his client were back before the Board. Frankie Shinn-Eckberg explained that the Board voted to offer Dr. Discont a Consent Agreement at their September meeting and read the Findings of Fact and Conclusions of Law. Dr. Discont provided his position on the allegations substantiated in the investigator's report. After asking several questions of Dr. Discont, including whether or not the patient disclosed her Epstein Barr condition, the type of steroid injection and his billing codes and procedures, the Board discussed going into executive session to seek legal advice

EXECUTIVE SESSION

A motion was made by Dr. Barbara Campbell, seconded by Dr. Barry Kaplan and passed unanimously to go into executive session at 12:42 p.m. to seek legal advice pursuant to A.R.S. § 38-431.03(A)(3) regarding file no. 14-04-C.

After consideration in executive session, the Board reconvened in open session at 12:50 p.m.

OPEN SESSION

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Review, Discussion and Possible Action of Offer for a Consent Agreement
14-04-C; Alan J. Discont, D.P.M.

After Dr. Barbara Campbell reviewed the options the Board may take, a motion was made by John Rhodes, seconded by Dr. Barry Kaplan and passed unanimously to rescind the Board's previous motion to offer a Consent Agreement based on the review of additional information.

After the Board discussed the matter and its concern with the medical records not being transferred timely, a motion was made by Dr. Joseph Leonetti, seconded by Dr. Barry Kaplan and passed unanimously to issue a Letter of Concern for "for Dr. Discont's untimely transmittal of medical records to the successor doctor and for his failure to document the specific medications and dosages that were injected".

The Board took a break from 12:56 p.m. to 1:07 p.m.

Investigation Files

14-35-C; Michael H. Dershowitz, D.P.M.

Due to the receipt of the information requested earlier, during the meeting, the Board called this matter again. The Board reviewed and discussed the signed affidavit from the third party vendor acknowledging their failure to properly maintain Dr. Dershowitz's records pursuant to their contract.

A motion was made by Dr. Barbara Campbell, 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 for New Investigation File

Nakra, Aprajita

Board staff provided an update and requested some direction regarding the case they voted to open in their September board meeting.

The Board requested that staff assign the new case to Dr. Dedrie Polakof to have her investigate the staging of the surgeries three days apart and whether or not the staging was appropriate and then notify Dr. Aprajita Nakra of the future meeting when the Board reviews the matter.

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Black, Trevor;

Choe, Ki;

Espensen, Eric;

Flynn, Zachary;

Gillespie, Steven;

Janowicz, Rachel;

Plaskey, Nathan;

Mahmood, Sara;

Marquez, Allison; and

Nelson, Jacob.

Frankie Shinn-Eckberg requested that the Board make a motion to issue licenses to the applicants for their successful passing of the examination because the Open Session Minutes from October do not reflect the issuance of the licenses.

A motion was made by Dr. Barbara Campbell, seconded by Dr. Joseph Leonetti and passed unanimously to issue licenses to the applicants for their successful passing of the examination and after the receipt of their payment.

REVIEW, DISCUSSION AND POSSIBLE ACTION ON BOARD MEETING MINUTES

Discussion and approval of the Open Session Minutes from the August 24, 2015 special board meeting.

Discussion and approval of the Executive Session Minutes from the August 24, 2015 special board meeting.

Discussion and approval of the Open Session Minutes from the October 14, 2015 board meeting.

Discussion and approval of the Executive Session Minutes from the October 14, 2015 board meeting.

Discussion and approval of the Open Session Minutes from the October 31, 2015 special board meeting.

Discussion and approval of the Executive Session Minutes from the October 31, 2015 special board meeting.

After making amendments to the Open Session Minutes from the August 24, 2015 special board meeting and the Open Session Minutes from the October 14, 2015 board meeting, a motion was made by Dr. Barbara Campbell, seconded by Dr. Barry Kaplan and passed unanimously to approve all the Open and Executive Session Minutes as amended, respectively.

PRESIDENT'S REPORT

Dr. Barbara Campbell summarized her forthcoming events. She stated that she will be attending a luncheon on Wednesday, December 16, 2015 with Joesph F. Abate, attorney for the Arizona Podiatric Medical Association. Dr. Campbell stated that she will also be presenting a lecture entitled "Professional Conduct: The Board Perspective" at the Midwestern Arizona College of Osteopathic Medicine in the spring.

EXECUTIVE DIRECTOR'S REPORT:

The Board reviewed the budget and agency operations with Ryan P. Edmonson. Specifically, Mr. Edmonson discussed the health of the budget, website changes, exploration to send the board materials via link in an email, staffing matters, mandatory board member training and the Boards and Commissions consolidation survey.

DISCUSSION AND POSSIBLE ACTION REGARDING CURRENT EVENTS

There were no current events discussed.

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

There were no items discussed to be placed on future meeting agendas.

DISCUSS, REVISE AND APPROVE THE 2016 MASTER MEETING CALENDAR

A motion was made by Dr. Barbara Campbell, seconded by John Rhodes and passed unanimously to approve the 2016 master meeting calendar.

NEXT BOARD MEETING DATE

Wednesday, January 13, 2016 at 8:30 a.m.

ADJOURNMENT

A motion was made by Dr. Barbara Campbell, seconded by Dr. Barry Kaplan and passed to adjourn at 2:07 p.m.