



Douglas A. Ducey,  
Governor

# Arizona State Board of Podiatry Examiners

“Protecting the Public’s Health”

1400 West Washington, Suite 230  
Phoenix, Arizona 85007  
P: (602)542-8151  
F: (602)542-3093  
W: [www.podiatry.az.gov](http://www.podiatry.az.gov)

## OPEN SESSION MINUTES

### February 10, 2016

Members of the Arizona State Board of Podiatry Examiners (“Board”) held a meeting at 8:42 a.m. on Wednesday, February 10, 2016 at the Board’s office in Suite B-1, 1400 West Washington Street, Phoenix, Arizona 85007. An executive session was held from 10:43 a.m. to 10:53 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, Esq..... Public Member
  
- ⌚ Arrived at 9:28 a.m.

#### STAFF PRESENT:

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

#### GUESTS PRESENT AND/OR PARTICIPATING

- Dedrie Polakof, D.P.M..... Board Investigator
- Jerome A. Cohn, D.P.M..... Board Investigator
- Janna L. Kroleski, D.P.M..... Respondent
- Charles S. Hover, III, Esq. .... Respondent’s Attorney

The meeting was called to order at 8:42 a.m. by Dr. Joseph Leonetti. The following order of business was then considered:

**OPEN SESSION**

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

No new conflicts were declared.

**REVIEW, DISCUSSION AND POSSIBLE ACTION ON BOARD MEETING MINUTES**

**Discussion and approval of the Open Session Minutes from the January 13, 2016 board meeting**

After making amendments, a motion was made by M. Elizabeth Miles, seconded by John Rhodes and passed unanimously to approve the Open Session Minutes from the January 13, 2016, Board meeting, as amended.

**Discussion and approval of the Executive Session Minutes from the January 13, 2016 board meeting**

A motion was made by M. Elizabeth Miles, seconded by John Rhodes and passed unanimously to approve the Executive Session Minutes from the January 13, 2016, Board meeting, as written.

**LEGISLATIVE UPDATE AND DISCUSSION**

**Board to meet with Joseph F. Abate, Esq., Arizona Podiatric Medical Association Lobbyist, who will provide an update regarding Arizona State Legislature bills, which may include HB 2310, HB 2357, HB 2466, HB 2487, HB 2501, SB 1283 SB 1443 and/or any other related legislation**

Joseph F. Abate, Esq. was present to provide an update to the Board regarding Arizona State Legislature House and Senate proposed legislation that may impact the Board and answered questions from the Board.

**ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION**

**Investigation Files**

**15-10-C; Kroleski, Janna L., D.P.M.**

Dr. Janna L. Kroleski was present along with her legal counsel, Charles S. Hover, III. The complainant was not present. Dr. Dedrie Polakof was present and provided a summary of her investigation.

After the Board discussed the matter, a motion was made by Dr. Barry Kaplan, seconded by Dr. Joseph Leonetti and passed unanimously to dismiss the case due to no violations of Board Statutes and Rules.

**11-38-C; Bui, Alex T., D.P.M.**

Dr. Alex T. Bui was not present, nor was the complainant. Dr. Jerome A. Cohn was present and provided a summary of his investigation.

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

*Dr. Barbara Campbell arrived at the board meeting.*

13-16-C; Lu, Adam K., D.P.M.

Dr. Adam K. Lu was not present, nor was the complainant. Dr. Barry Kaplan asked whether or not Dr. Lu was still licensed in Arizona and if the information was not readily available, he requested staff to find out. Dr. Jerome A. Cohn was present and provided a summary of his investigation.

Staff reported back to the Board that Dr. Lu's Arizona license was canceled in September 2015. The Board discussed whether or not they still had jurisdiction over the matter due to the cancelation. The Board also believed, based on the investigation, there was no substantiation that Dr. Lu was negligent in regard to the complainant's complaint. However, the Board did have a concern with Dr. Lu's premature destruction of client records.

A motion was made by M. Elizabeth Miles to dismiss the case in regard to the complainant's complaint due to no violations of Board Statutes and Rules. The motion included reserving the right to allow a future Board to re-open the matter regarding the early destruction of client medical records should Dr. Lu seek to re-apply for an Arizona podiatry license in the future.

Prior to a second to the motion and a vote, the Board discussed the constraints of trying to "remember" this matter or preserving this issue for future review. The motion was seconded by Dr. Barbara Campbell and passed unanimously.

15-19-C; Westphal, Chad R., D.P.M.

Dr. Chad Westphal was not present, nor was the complainant. Dr. Jerome A. Cohn was present and provided a summary of his investigation. Dr. Cohn stated that he thought the Board might have a concern that Dr. Westphal did *not* provide a response to the complaint.

A motion was made by M. Elizabeth Miles to open a Board complaint for failure to provide the Board records upon request.

Prior to a second to the motion and a vote, the Board concluded that there was a misunderstanding of what constitutes records and that Dr. Westphal did indeed provide records, but he did not provide his own written comments. The Board stated and agreed that it is the doctor's privilege to offer a response, but it is not mandatory for the doctor to respond.

*Based on the Board's understanding of Dr. Cohn's definition of response, M. Elizabeth Miles withdrew her motion.*

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

*The Board took a break from 10:13 a.m. to 10:22 a.m.*

15-20-C; O'Brien, Kevin J., D.P.M.

Dr. Kevin J. O'Brien was not present, nor was the complainant. Dr. Jerome A. Cohn was present and provided a summary of his investigation. Dr. Cohn's investigation included the results of a cursory review of the successor podiatrist's billing for the same service as Dr. O'Brien's. The Board found it ironic that the complainant filed a complaint against Dr. O'Brien regarding

excessive fee for services when the successor podiatrist charged \$1,420.00 for a pair of UCB orthotics, which was roughly \$1,000 more than what Dr. O'Brien charged for the same thing.

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

After discussion, a second motion was made by M. Elizabeth Miles, seconded by Dr. Joseph Leonetti and passed unanimously to open a complaint against Dr. Ronald B. Killian for an allegation of excessive fees. The motion included reviewing Dr. Killian's records and to provide him an opportunity to respond to the Board's allegation.

15-21-B; Knochel, Joseph E., D.P.M.

After the Board reviewed Dr. Knochel's addiction specialist submission and résumé, a motion was made by Dr. Joseph Leonetti, seconded by Barbara Campbell and passed unanimously to approve Ashwin Reddy, MD as Dr. Knochel's addiction specialist.

16-01-C; Aung, Barbara J., D.P.M.

Dr. Barbara J. Aung was not present, nor was the complainant. Dr. Dedrie Polakof was present and provided a summary of her investigation.

After the Board discussed the matter, a motion was made by Dr. Barry Kaplan, seconded by Dr. Barbara Campbell and passed unanimously to dismiss the case due to no violations of Board Statutes and Rules.

16-12-B; O'Brien, Kevin J., D.P.M.

Dr. Kevin J. O'Brien was not present.

After the Board reviewed Dr. O'Brien's response, a motion was made by M. Elizabeth Miles, seconded by Dr. Joseph Leonetti and passed unanimously to table any legal action to ensure Dr. O'Brien understands his limitations on advertising and request that he provide any and all copies of his current print and electronic advertising.

Settlement Offer

14-02-C; Rampertab, Deo, D.P.M.

Frankie Shinn-Eckberg requested that the Board go into executive session to allow her an opportunity to provide them with some legal advice.

**EXECUTIVE SESSION**

A motion was made by Dr. Barbara Campbell, seconded by Dr. Joseph Leonetti and passed unanimously to go into executive session at 10:43 a.m. to seek legal advice pursuant to A.R.S. § 38-431.03(A)(3) regarding file no 14-02-C.

After consideration in executive session, the Board reconvened in open session at 10:53 p.m.

**OPEN SESSION**

**ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION**

Settlement Offer

14-02-C; Rampertab, Deo, D.P.M.

After the Board discussed the settlement offer, a motion was made by M. Elizabeth Miles, seconded by Dr. Barry Kaplan and passed unanimously to accept Dr. Rampertab's settlement offer for a \$4,000 civil penalty and a stayed-probation of one year should Dr. Rampertab return to practice in Arizona while also treating and billing his own patients.

Request for Pre-approval of Continuing Medical Education ("CME")

13-10-C; Rosales, Mark A., D.P.M.

After the Board reviewed Dr. Rosales' multiple, emailed CME submissions for pre-approval, a motion was made by M. Elizabeth Miles, seconded by Dr. Joseph Leonetti and passed unanimously to approve his request to waive the pre-approval compliance measure and approve the course already completed, titled *Reimbursement, Coding & Compliance for Podiatry*, offered by McVey Associates, Inc.

A motion was made M. Elizabeth Miles, seconded by Dr. Joseph Leonetti and passed unanimously to deny the Valley of the Sun conference that Dr. Rosales submitted for pre-approval.

A motion was made by M. Elizabeth Miles, seconded by Dr. Barry Kaplan to deny the course to be taken on March 3, 2016 due to the duplicity of the course titled *Reimbursement, Coding & Compliance for Podiatry*, offered by McVey Associates, Inc.

Due to the numerous submissions, the timeframe to complete CME and the possible confusion, Dr. Joseph Leonetti volunteered to assist Dr. Rosales find courses to meet the compliance terms of his Consent Agreement.

A motion was made by M. Elizabeth Miles, seconded by Dr. Barry Kaplan and passed unanimously to grant Dr. Joseph Leonetti authority, on the Board's behalf, to approve or deny any course request that Dr. Rosales submits for preapproval.

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

Nassier, Wajdi, D.P.M.

After the Board reviewed the application, a motion was made by M. Elizabeth Miles, seconded by Dr. Joseph Leonetti and passed unanimously to approve the applicant to sit for the examination.

Settlement Offer

14-02-C; Rampertab, Deo, D.P.M.

Frankie Shinn-Eckberg requested that the Board re-visit this matter due to the requirement, pursuant to A.R.S. § 32-3205 to conduct a roll call vote. After Dr. Joseph Leonetti reiterated the motion to accept Dr. Rampertab's settlement offer for a \$4,000 civil penalty and a stayed-probation of one year should Dr. Rampertab return to practice in Arizona while also treating and billing his own patients, the motion passed unanimously 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

**EXECUTIVE DIRECTOR’S REPORT**

The Board reviewed the budget, agency operations and complaint log with Ryan P. Edmonson. The Board also discussed whether or not to proceed with an “investigator training course” and what direction to take in that regard. M. Elizabeth Miles volunteered to put a “course” together that can be “taught” at a future board meeting.

**CALL TO THE PUBLIC**

No one from the public was present.

**DISCUSSION AND POSSIBLE ACTION REGARDING CURRENT EVENTS**

None were discussed.

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

None were discussed.

**NEXT BOARD MEETING DATE**

Wednesday, March 9, 2016 at 8:30 a.m.

**ADJOURNMENT**

A motion was made by Dr. Joseph Leonetti, seconded by M. Elizabeth Miles and passed unanimously to adjourn at 11:47 a.m.