



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

OPEN SESSION MINUTES

March 8, 2017

Members of the Arizona State Board of Podiatry Examiners (“Board”) held a meeting at 8:31 a.m. on Wednesday, March 8, 2017 at the Board’s office in Suite B-1, 1400 West Washington Street, Phoenix, Arizona 85007. Executive sessions were held from 8:32 a.m. to 8:39 a.m. and from 10:28 a.m. to 10:39 a.m.

BOARD MEMBERS:

- Barbara Campbell, DPM..... Board President and Practitioner Member
- John Rhodes Secretary and Public Member
- Barry Kaplan, DPM. Practitioner Member
- Joseph Leonetti, DPM..... Practitioner Member
- × M. Elizabeth Miles..... Public Member
- × Absent

STAFF AND ASSISTANT ATTORNEYS GENERAL PRESENT:

- Ryan P. Edmonson..... Executive Director
- Frankie Shinn-Eckberg, Esq. Assistant Attorney General
- Mary DeLaat Williams, Esq Assistant Attorney General
- Scott Donald, Esq..... Assistant Attorney General

GUEST(S) PRESENT AND/OR PARTICIPATING

- Kent Peterson, DPM Respondent
- Joseph Dobrusin, DPM..... Respondent
- Victoria Stazio, Esq. Respondent’s Attorney
- Jon D. Brown, DPM..... Respondent

The meeting was called to order at 8:31 a.m. by Dr. Barbara Campbell. The following order of business was then considered:

OPEN SESSION

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

Dr. Barry Kaplan reaffirmed his conflict with file no. 17-11-C; Brewer, Michael, DPM.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Review, Consider, Discuss and Take Action on a Proposed Settlement Offer

15-23-C; Brown, Jon D., DPM

Dr. Jon D. Brown was not present, nor was his legal counsel. Frankie Shinn-Eckberg and Scott Donald were present and Mary DeLaat Williams was present to provide independent legal advice to the Board. 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 8:32 a.m. to seek legal advice pursuant to A.R.S. § 38-431.03(A)(3) regarding file no. 15-23-C.

After consideration in executive session, the Board reconvened in open session at 8:39 a.m.

OPEN SESSION

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Review, Consider, Discuss and Take Action on a Proposed Settlement Offer

15-23-C; Brown, Jon D., DPM

Dr. Jon D. Brown was again not present, nor was his legal counsel. Frankie Shinn-Eckberg and Scott Donald were again present and Mary DeLaat Williams was again present to provide independent legal advice to the Board.

The Board questioned whether Dr. Brown has seen and read the current document the Board reviewed for the meeting. Ms. Shinn-Eckberg stated that Dr. Brown has received the same document and he and his attorneys responded with a new document for consideration that left out three specific amendments that Ms. Shinn-Eckberg and Mr. Donald made at the settlement conference. Ms. Shinn-Eckberg describe the three amendments as being non-negotiable, and therefore, placed the amendments back in the document for reconsideration and to date Dr. Brown has not accepted the offer.

A motion was made by Dr. Joseph Leonetti and seconded by John Rhodes to accept the proposed settlement as written and allow Dr. Brown the opportunity to sign it and if not accepted and signed by Dr. Brown to proceed to the scheduled, formal administrative hearing. The motion passed 4 – 0 by the following roll call vote:

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

Investigation Files15-06-C; Peterson, Kent, DPM

Dr. Kent Peterson was present. The Board discussed with Dr. Peterson the EOBs, superbills and patient records he submitted, the billing codes he uses and his patterns in billing. The Board was concerned with Dr. Peterson's documentation and specifically stated that in order for a bill to include a medical billing code 99213 there must be a separate, identifiable diagnosis. The Board discussed monitoring Dr. Peterson's billing records and whether or not that had to be in a Consent Agreement. Frankie Shinn-Eckberg stated the best solution might be for the Board to offer a Non-Disciplinary Consent Agreement versus keeping the file open indefinitely for periodic review.

After discussion, a motion was made by Dr. Joseph Leonetti, seconded by Dr. Barbara Campbell and passed unanimously to offer a Non-Disciplinary Consent Agreement to include six months monitoring random charts through a random chart audit, for each month, over the six-month period.

17-05-C; Dobrusin, Joseph, DPM

Dr. Joseph Dobrusin was present along with his legal counsel Victoria Stazio. Dr. Barbara Campbell summarized the complaint and the investigator's report. Dr. Dobrusin stated that the patient's allegations are completely inconsistent with Dr. Dobrusin's office notes. After stating that the Board could follow along with the patient records he provided, the Board discovered that they in fact do not have the patient records.

After the Board discussed the current inability to review the patient records and the need to be consistent, the Board requested to request the patient records and tabled the matter until the April meeting in order to review the patient records.

The Board took a break from 9:58 a.m. to 10:17 a.m.

Review, Consider, Discuss and Take Action on a Proposed Settlement Offer15-23-C; Brown, Jon D., DPM

Dr. Jon D. Brown was present without his legal counsel. Frankie Shinn-Eckberg and Scott Donald were present and Mary DeLaat Williams was present to provide independent legal advice to the Board.

Prior to hearing from Dr. Brown, Scott Donald stated, for the record, that he contacted Dr. Brown's legal counsel and they are aware that their client was going to be present before the Board to discuss settlement without them present. The Board explained the previous vote from earlier in the day and asked Dr. Brown why he was present now. Dr. Brown answered that it was a last minute decision to be present this morning and a last minute decision that he elected to continue toward a formal hearing. Dr. Brown also stated he wanted to give one last "Hail Mary" prior to the scheduled hearing the following week. Dr. Brown stated that he understands that he is in error and that he has done some egregious things by his lack of paperwork, but he does not like the revocation language in the draft settlement. He requested that the Board remove that language from the settlement order.

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 10:28 a.m. to seek legal advice pursuant to A.R.S. § 38-431.03(A)(3) regarding file no. 15-23-C.

After consideration in executive session, the Board reconvened in open session at 10:39 a.m.

OPEN SESSION

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Review, Consider, Discuss and Take Action on a Proposed Settlement Offer

15-23-C; Brown, Jon D., DPM

Dr. Jon D. Brown was again present without his legal counsel. Frankie Shinn-Eckberg and Scott Donald were again present and Mary DeLaat Williams was again present to provide independent legal advice to the Board.

The Board asked Ms. Shinn-Eckberg or Mr. Donald to explain to Mr. Brown recital number seven and the word revocation within it. Ms. Shinn-Eckberg explained that the Board does not have a statute that allows for voluntary surrender of license, and therefore, it has to be reported to the National Practitioner Databank as a revocation.

Ms. Shinn-Eckberg requested that the Board make a revision to Conclusion of Law number two due to an error for a statute reference. The correct reference should be A.R.S. § 32-854.01(11).

A motion was made by Dr. Barbara Campbell and seconded by Joseph Leonetti to rescind the earlier motion accepting the proposed settlement as written and allow Dr. Brown the opportunity to sign it and if not accepted and signed by Dr. Brown to proceed to the scheduled, formal administrative hearing. The motion included accepting the proposed settlement, with the reference correction, and allow Dr. Brown the opportunity to sign it and if not accepted and signed by Dr. Brown to proceed to the scheduled, formal administrative hearing. The motion passed 4 – 0 by the following roll call vote:

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

Investigation Files

17-10-C; Jones, Noland, DPM

Dr. Noland Jones was not present. Staff provided an update regarding the three subpoenas – one to Dr. Jones, one to the assisted living facility and one to the billing service company.

17-11-C; Brewer, Michael, DPM

Dr. Michael Brewer was not present. Dr. Barbara Campbell summarized the complaint and the investigator's report.

After discussion, a motion was made by John Rhodes, seconded by Dr. Barbara Campbell and passed 3 – 0 – 1 to dismiss the case due to no violations of Board Statutes and Rules.

Dr. Barry Kaplan declared a conflict and did not participate.

REVIEW, DISCUSSION AND POSSIBLE ACTION ON BOARD MEETING MINUTES

Discussion and approval of the Open Session Minutes from the February 8, 2017 board meeting

A motion was made by Dr. Barbara Campbell, seconded by Dr. Barry Kaplan and passed 3 – 1 – 0 to approve the Open Session Minutes from the February 8, 2017, board meeting.

John Rhodes abstained.

Discussion and approval of the Executive Session Minutes from the February 8, 2017 board meeting

A motion was made by Dr. Barbara Campbell, seconded by Dr. Barry Kaplan and passed 3 – 1 – 0 to approve the Executive Session Minutes from the February 8, 2017, board meeting.

John Rhodes abstained.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

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

Lewis, W. Kreig, DPM

Whitford, Lara, DPM

After review of the applications, a motion was made by Dr. Barbara Campbell, seconded by Dr. Joseph Leonetti and passed unanimously to approve of the applicants' applications to sit for the examination.

EXECUTIVE DIRECTOR'S REPORT

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

SUMMARY OF CURRENT EVENTS

None were discussed.

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

None were discussed.

CALL TO THE PUBLIC

No one from the public wished to address the Board.

NEXT BOARD MEETING DATE

Wednesday, April 12, 2017 at 8:30 a.m.

ADJOURNMENT

A motion was made by Dr. Barbara Campbell, seconded by Dr. Joseph Leonetti and passed unanimously to adjourn at 12:04 p.m.