



Douglas A. Ducey
Governor

State Of Arizona Board of Podiatry Examiners
"Protecting the Public's Health"
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Barry Kaplan, DPM; Joseph Leonetti, DPM; Barbara Campbell, DPM;
M. Elizabeth Miles, Public Member; John Rhodes, Public Member;
Sarah Penttinen, Executive Director

Final Regular Session Minutes

August 12, 2015

8:30 a.m.

1400 West Washington St., B-1
Phoenix, AZ 85007

Board Members Present: Barbara Campbell, D.P.M, President
Barry Kaplan, D.P.M., Member
Joseph Leonetti, D.P.M., Member
John Rhodes, Public Member, Secretary-Treasurer
M. Elizabeth Miles, Public Member

Staff present: (Acting) Margaret Whelan, Executive Director, State Board of Optometry
Dee Doyle, Administrative Assistant, Board of Naturopathic Physicians

Assistant Attorney General: Frankie Shinn-Eckberg

CALL TO ORDER

Dr. Campbell called the meeting to order at 8:34 a.m.

A. ROLL CALL

All members of the Board were present; Ms. Shinn-Eckberg and acting staff Margaret Whelan and Dee Doyle were present.

B. PRESIDENT'S REPORT

None.

C. REVIEW, DISCUSSION, UPDATE AND POSSIBLE ACTION ON PERSONNEL MATTERS REGARDING THE EXECUTIVE DIRECTOR:

1. Sarah Penttinen, Executive Director
 - i. Update from Vicky Rokkos, Human Resources Officer, Arizona Dept. of Administration
 - ii. Ratification of previous Board Action on approval of LWOP
 - iii. New LWOP request(s)
 - iv. Employment status

Ms. Miles moved to go into Executive Session to discuss personnel matters. Dr. Leonetti seconded the motion. Motion passed 5-0.

The Board went into Executive Session at 8:35 a.m.

The Board reconvened Regular Session at 8:52 a.m.

MOTION: Ms. Miles moved to ratify the Leave Without Pay (“LWOP) request for July 20-31, 2015. Dr. Leonetti seconded the motion.

VOTE: Motion passed 5-0.

MOTION: Ms. Miles moved to approve the additional LWOP requested for the dates of August 1, 2015 to August 7, 2015. Dr. Leonetti seconded the motion.

VOTE: Motion passed 5-0.

Ms. Miles moved to go into Executive Session for legal advice regarding personnel matters. Dr. Leonetti seconded the motion. Motion passed 5-0.

The Board went into Executive Session at 8:54 a.m.

The Board reconvened Regular Session at 9:15 a.m.

MOTION: Ms. Miles moved to accept the return to work hours as described by Ms. Penttinen’s physician, including reduction in FTE status. A probationary period under the current necessity to improve order will begin on August 10, 2015; modified to the extent of reduced hours until September 7, 2015 at which time Ms. Penttinen would resume working full-time. The reduced schedule would be as follows: four hours per day from August 10, 2015 to August 23, 2015 with work hours of 10 a.m. to 2 p.m.; six hours per day from August 24, 2015 to September 6, 2015 with work hours of 10 a.m. to 4 p.m. Dr. Leonetti seconded the motion.

VOTE: Motion passed 5-0.

The Board into Executive Session at 9:25 a.m. for legal advice regarding personnel matters.

The Board reconvened Regular Session at 9:40 a.m.

D. REVIEW, DISCUSSION AND CONSIDERATION OF CANDIDATES FOR TEMPORARY STAFF:

2. Evelyn Estrella

- i. Update from Kristin Maves, Human Resources Officer, Arizona Department of Administration

Ms. Miles moved to go into Executive Session to discuss personnel matters. Dr. Leonetti seconded the motion. Motion passed 5-0.

The Board went into executive Session at 8:35 a.m.

The Board reconvened regular session at 8:52 a.m.

Ms. Maves informed the Board that they should review the personnel file for any candidate they are considering for employment for this or the executive director position.

The Board agreed that they would review the personnel file for this candidate prior to making its decision.

E. REVIEW, DISCUSSION AND POSSIBLE ACTION ON HIRING A TEMPORARY ADMINISTRATIVE POSITION FOR THE AGENCY:

The Board discussed the need for a temporary administrative support position for the Executive Director position. Dr. Campbell directed staff to open up a part-time administrative position for up to 19 hours per week as-needed.

F. REVIEW, DISCUSSION AND POSSIBLE ACTION ON ESTABLISHING A PERMANENT ADMINISTRATIVE POSITION FOR THE AGENCY:

The Board directed Ms. Whelan to establish a permanent administrative assistant position; possibly a grade 15 to 17 and submit salaries for three comparable positions for the Board's review.

G. REVIEW, DISCUSSION AND VOTE ON INVESTIGATIVE REVIEWS/COMPLAINTS:

3. 11-01-C Kevin O'Brien, D.P.M.

Dr. Campbell stated that there is some confusion with submission of Continuing Medical Education ("CME") for compliance with the current Order. Dr. O'Brien was present to address the Board. He stated he sent certified letters the Board but received no response. Dr. Campbell asked which CME hours go to license renewal and which ones are to satisfy the Order. Dr. O'Brien asked for five-minute recess to get copies of the signed certified letter receipts. The Board resumed session and reviewed the CME submitted by Dr. O'Brien. Ms. Miles stated a comprehensive timeline was needed to determine compliance with the Order. After reviewing the documents submitted, Ms. Miles felt that the doctor was in compliance with the CME portion of the Order.

MOTION: Ms. Miles moved to rescind the complaint for noncompliance from the April 8, 2015 meeting. Dr. Kaplan seconded the motion.

VOTE: Motion passed 5-0.

MOTION: Ms. Miles moved to accept all CME submitted as part of the Order to substantially comply. Dr. Kaplan seconded the motion.

VOTE: Motion passed 5-0.

The Board went into executive session for legal advice at 11:00 a.m.
The Board reconvened Regular Session at 11:07 a.m.

MOTION: Ms. Miles moved to terminate the probation pertaining to CME and deny the request to lift the restrictions of surgery pursuant to the Order. Dr. Kaplan seconded the motion.

VOTE: Motion passed 50.

4. 11-39-M Kevin O'Brien, D.P.M.

This complaint was originally heard on March 12, 2014 where further investigation was needed. The patient presented to the emergency room with a three-way ankle fracture. The emergency room doctors splinted and casted the patient. Dr. O'Brien followed up with the patient and determined he needed surgery. Patient needed Trimalleolar surgery to repair the fracture but only had bimalleolar surgery causing the foot to become unstable. Dr. Campbell asked if there were x-rays from the emergency room. There were, however, the x-rays from emergency room didn't show a Trimalleolar fracture. Dr. Leonetti asked how big the surface of the fracture was. Dr. Polakof stated less than 25% but no displacement; no syndesmotom tightrope was used and subsequent physician used stabilization screw for the second surgery. On January 8, 2009, x-ray shows stabilization of ankle with a metallic fixation plate. Dr. Campbell asked Dr. Polakof she thought Dr. O'Brien had the report from the emergency room as the x-rays came two days after Dr. O'Brien started treating the patient. Dr. O'Brien was present to address the Board stating the patient went on to see an orthopedic surgeon to have surgery which was still unsuccessful. Dr. O'Brien stated he had not done any fractures since the original complaint. Dr. Campbell asked Dr. O'Brien if he did any exploration during surgery. Dr. O'Brien stated he saw the patient two times after the original surgery. Dr. Kaplan asked Dr. O'Brien if he reviewed the MRI prior to surgery. Tightrope was used by Dr. O'Brien but a second doctor noted not properly. Dr. O'Brien not seen the x-rays and did not have them however they were provided to the Board. Dr. Kaplan asked Dr. O'Brien if he asked for the x-ray report from emergency room. Dr. Leonetti states Dr. O'Brien saw the patient maybe saw the fracture; maybe not. Patient subsequently saw orthopedic surgeon who stated the screws, plate and other equipment were not installed correctly although it is possible the patient walked on the foot and displaced the work done by Dr. O'Brien and that the foot was fixated properly to begin with. Dr. Leonetti stated he felt to determine if there was an issue he would need to see the films. The patient has films and the Board would make a request of the patient to view them. Ms. Miles noted that the surgery appeared to have been performed after the 11-01-C Order prohibiting Dr. O'Brien from performing surgery. Ms. Miles questioned whether the Order for no surgeries was in place at the time Dr. O'Brien performed this surgery. Dr. Leonetti stated is important to review the x-rays to make a final determination. The radiologist said fixation was done properly and was reduced. Dr. Leonetti says he is concerned that the fixation was not done correctly and asked the Board to continue the case and directed staff to locate x-rays for further review.

5. 14-12-C Stanton Cohen, D.P.M.

Dr. Polakof presented the case as patient is an 84-year-old female who complained of C. diff infection requiring emergency room care. From 2008-2011, patient was seen for issues for subluxation. Dr. Polakof attempted to call the patient at 11:32 a.m. to interview her for this complaint but the patient did not answer the phone. Consent forms were in the chart and were correct. C. diff is a side effect of Clindamycin drug and there did not appear to be a violation of the podiatric practice act. Dr. Leonetti asked Dr. Polakof if the surgery was done properly. She stated it was although she may not have performed surgery on a patient of this age. Dr. Leonetti had some concern about the post-op as the second toe sticks straight up. No further discussion by the Board.

MOTION: Dr. Campbell moved to dismiss to lack of violation of the podiatric practice act.
Dr. Kaplan seconded the motion.

VOTE: Motion passed 5-0

6. 14-14-B Ronald Killian, D.P.M.

This complaint was initiated after Board review of a patient seen by Dr. Killian. Dr. Polakof called patient who informed her that she was told personal information by Dr. Killian about Dr. O'Brien regarding his marital status and house and that she left Dr. Killian because of his temper. Dr. Polakof stated that Dr. Killian made negative comments to the patient about Dr. O'Brien. Patient states she only knew Dr. O'Brien by what Dr. Killian told her. Dr. Killian and Dr. O'Brien were partners in practice. Dr. Polakof believes Dr. Killian did make negative comments towards Dr. O'Brien. Ms. Miles asked Dr. Polakof if she saw the negative comments in the record; Dr. Polakof stated she did. Ms. Miles asked if there was only one patient with these allegations or were there more. Dr. Polakof stated there were several.

MOTION: Dr. Leonetti moved to issue a Letter of Concern for unprofessional conduct regarding statements made to patients and other professionals regarding Dr. O'Brien. Dr. Kaplan seconded the motion.

VOTE: Motion passed 5-0.

7. 14-29-B Brad Hayman, D.P.M.

Dr. Polakof presented the case as this was an allegation of performing unnecessary surgery and failure to perform an adequate preoperative exam. There were two expert witnesses in this complaint; one for the plaintiff and one for the defendant; those testimonies offset each other. The Court dismissed the case with prejudice and there was no indication performing unnecessary surgery.

MOTION: Ms. Miles moved to issue a Letter of Concern for poor documentation including the preoperative documentation. Dr. Kaplan seconded the motion.

VOTE: Motion passed 5-0.

8. 14-34-C Alex Bui, D.P.M.

Dr. Cohn presented the case as a complaint of unprofessional behavior in that Dr. Bui took photos of a patient with a non-secure personal device, using the personal cell phone of a front office staff member as the office camera was working. There was also an issue with the procedure for taking x-rays and wearing protective gear. Dr. Bui said staff follows protocol for all x-ray procedures. Dr. Bui's notes were complete and comprehensive. Dr. Bui recommended a Cam Walker and MRI however the patient refused and did not follow up. Dr. Cohn contacted the Arizona Radiology Board who confirmed that Dr. Bui was compliant in 2007 when he was last checked. Dr. Cohn stated did not see a violation of the photo issue or x-ray procedure. Patient says she was not asked if she was pregnant it was not noted in the medical record that she had been asked.

MOTION: Ms. Miles moved to issue a Letter of Concern for failing to properly document pregnancy for purposes of x-ray and use of personal cell phone for a patient photo. Mr. Rhodes seconded the motion.

VOTE: Motion passed 5-0.

9. 15-03-C Donald Siegel, D.P.M.

This case is connected with two other practitioners/cases 15-04-C and 15-05-C. The Board reviewed the entire investigative file which included three practitioners. Allegations in this complaint include that the patient was concerned about amount and administration of injections in a six-month timeframe. After review of the file, it did not appear that the injections were improperly administered.

MOTION: Dr. Campbell moved to dismiss as there was no violation of the podiatric practice act. Ms. Miles seconded the motion.

VOTE: Motion passed 5-0.

10. 15-04-C Kimberly Leach, D.P.M.

This case is connected with two other practitioners/cases 15-03-C and 15-05-C. The Board reviewed the entire investigative file which included three practitioners. Allegations in this complaint include that the patient was concerned about amount and administration of injections in a six-month timeframe. After review of the file, it did not appear that the injections were improperly administered.

MOTION: Dr. Campbell moved to dismiss as there was no violation of the podiatric practice act. Ms. Miles seconded the motion.

VOTE: Motion passed 5-0.

11. 15-05-C Mia Horvath, D.P.M.

This case is connected with two other practitioners/cases 15-03-C and 15-04-C. The Board reviewed the entire investigative file which included three practitioners. Allegations in this complaint include that the patient was concerned about amount and administration of injections in a six-month timeframe. After review of the file, it did not appear that the injections were improperly administered.

MOTION: Dr. Campbell moved to dismiss as there was no violation of the podiatric practice act. Ms. Miles seconded the motion.

VOTE: Motion passed 5-0.

12. 15-22-C Loren Wessel, D.P.M.

This case was continued from a previous Board meeting in order for Dr. Cohn to glean and review additional information received by the practitioner's former employer. After reviewing the information submitted, Dr. Cohn stated there were no findings and allegations of taking medication from patients are unsubstantiated.

MOTION: Dr. Kaplan moved to dismiss the case due to lack of violation of the podiatric practice act. Mr. Rhodes seconded the motion.

VOTE: Motion passed 5-0.

H. REVIEW, DISCUSSION, APPROVAL AND POSSIBLE ACTION ON RENEWAL OF LICENSE TO PRACTICE:

Licensee	Disp.	Licensee	Disp.	Licensee	Disp.
Accomando, William	Yes	Farrell, Patrick	Yes	Montes, Kara	Yes
Allen, Brian	Yes	Fox, Michael	Yes	Myers, Robin	No
Almas, Gary	No	Fulmer, Daniel	Yes	Nagy, Ronald	Yes
Andrews, Boyd	No	Garber, James	Yes	O'Connor, Rachel	Yes
Aung, Barbara	Yes	Geller, Stephen	No	Olsen, Mark	Yes
Benjamin-Swonger, Mary	No	Gillroy, Kelly	No	Pallini, Lisa	No
Berman, David	Yes	Glesinger, April	No	Pfitzer, Tawnya	Yes
Blocher, Kenneth	Yes	Goldman, Eugene	Yes	Pipher, Mark	Yes
Bock Jr., Raymond	Yes	Golub, Ryan	No	Rampertab, Deo	No
Bowen, Joel	Yes	Hall, Hugh	Yes	Resnick, Jeffrey	No
Brigandi, Catherine	No	Hamilton, Jarrett	No	Ripperger, J Barton	No
Broadhead, Brian	No	Harant Jr, William	Yes	Robinson, Richard	No
Burns, Steven	Yes	Heath, Laura	No	Roeder, Brett	Yes
Byun, Sunghwan	Yes	Hutcheson, Brian	Yes	Rosenblum, Michael	No
Caton, Adam	No	Jensen, Travis	No	Sallus, Kauyn	No
Chaudhry, Shemaryar	No	Johnson, Gail	No	Sandall, Blair	Yes
Chiarello, Robert	Yes	Jones, Matthew	No	Sangalang, Maria	Yes
Chudy, Donald	Yes	Kaiman, Matthew	Yes	Seater-Benson, Vivian	Yes
Cohen, Douglas	No	Kaner, Santon	No	Shapiro, Paul	Yes
Cohn, Jerome	No	Kirk, Patricia	Yes	Shoffer, James	Yes
Collins, Karl	No	Kleis, Jeffrey	No	Shumway, Kendall	No
Copoloff, Jeffrey	Yes	Kroleski, Janna	No	Steck, Jerome	Yes
Corcoran, David	Yes	Larkin, Kirk	No	Stocker, James	No
Costantino, Michael	No	Ledesma, Paul	No	Straley, Andrew	Yes
Cota, Laureen	Yes	Leonetti, Joseph	Yes	Thoms, Tanya	Yes
Crezee, Kelvin	Yes	Mann, Cindy	No	Tierney, Edward	No
Curtis, Donald	Yes	Mann, Steven	Yes	Troy, Thomas	No
Cwas, Evan	No	Mansdorf, Neil	Yes	Udupa, Thares	No
Dechowitz, Brian	No	Martin, Erin	No	Weissfeld, Mark	No
Dimidjian, Carlos	No	Maselli, Mary	No	West, Holly	Yes
Domanico, Joseph	Yes	McCarthy, Cathleen	No	Westerhaus, Lindsey	Yes
Duggar, Jessica	Yes	McMaster, Paul	Yes	Wiebe, Edward	Yes
Elison, Peyman	Yes	Miller, Floyd	Yes	Wissman, Lance	Yes
Elison, Viedra	Yes	Miller, Lois	No	Wolf, Arnold	No
Erredge, Susan	Yes	Momjian, Pierre	No	Wolfensperger, Kimberly	No
Farahani, Kamran	Yes				

Prior to approving these renewals, Dr. Campbell directed staff to have the Board's programmer update the report in the database regarding renewals and that they need licensed dispensers to be added to the reports section of the database.

MOTION: Dr. Kaplan moved to renew the license for Dr. Joseph Leonetti. Dr. Campbell seconded the motion.

VOTE: Motion passed 3-0. Dr. Leonetti recused.

MOTION: Dr. Campbell moved to approve the rest of the above stated licenses for renewal.
Dr. Leonetti seconded the motion.

VOTE: Motion passed 3-0.

I. REVIEW, DISCUSSION AND POSSIBLE APPROVAL OF BOARD MEETING MINUTES:

13. June 10, 2015 Regular Session Minutes

MOTION: Dr. Campbell moved to approve item 13 with two amendments; corrections of spelling for “unnaboot” and “bunionectomy”. Mr. Rhodes seconded the motion.

VOTE: Motion passed 5-0.

14. June 10, 2015 Executive Session Minutes

MOTION: Dr. Campbell moved to approve item 14 as written. Dr. Kaplan seconded the motion.

VOTE: Motion passed 5-0.

15. June 10, 2015 Second Executive Session Minutes

MOTION: Ms. Miles moved to approve item 15 as written. Mr. Rhodes seconded the motion.

VOTE: Motion passed 5-0.

16. June 10, 2015 Third Executive Session Minutes

MOTION: Dr. Campbell moved to approve item 16 as written. Rhodes seconded the motion.

VOTE: Motion passed 5-0.

17. June 10, 2015 Fourth Executive Session Minutes

MOTION: Dr. Campbell moved to approve item 17 as written. Mr. Rhodes seconded the motion.

VOTE: Motion passed 5-0.

J. EXECUTIVE DIRECTOR’S REPORT:

18. Budget

19. Board Office Administrative/Complaint Status Update

20. Fiscal Year End Reports Update
21. Future Agenda Items

Ms. Whelan reported that as of June 30, 2015 the beginning cash balance was \$105, 874 with an ending cash balance of \$155, 654. For FY15, the Board's appropriation was \$147,300 with the Board spending \$128,020, leaving approximately \$24,160 left of appropriations. As the fiscal year has not been completely closed out; it is expected that approximately \$8000 will be transferred over to complete the FY15 payments for the new computers and file cabinets purchased by the Board as well as other ancillary bills that did not get paid by June 30th.

Ms. Whelan informed the Board that since the last Board meeting, 56 phone calls and 180 e-mails were received and responded to by staff. Approximately 10 to 15 complaints have been heard by the Board and have been closed and there have been 385 renewals processed.

The Lobbyist Quarterly report and Risk Management Survey were completed. Budget and Strategic Planning are in process and will be completed by September 1, 2015 as required.

Ms. Whelan asked the Board if there were any future agenda items at this time; none requested.

K. CALL TO PUBLIC:

Dr. Campbell made a call to the public at 1:00 p.m. No one was present to address the Board.

L. NEXT BOARD MEETING DATE:

22. September 9, 2015 at 8:30 a.m.

The Board confirmed that its next regular meeting is September 9, 2015.

M. MOTION TO ADJOURN:

Dr. Kaplan moved to adjourn the meeting at 1:37 pm. Mr. Rhodes seconded the motion. Motion passed 5-0.