



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 Meeting Minutes

JUNE 10, 2015

June 10, 2015 8:00 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
John Rhodes, Secretary-Treasurer
Elizabeth Miles, Public Member

Board Members Absent: Joseph Leonetti, D.P.M., Member

Assistant Attorney General: Frankie Shinn-Eckberg

Board Staff: (Acting) Margaret Whelan, Executive Director, Board of Optometry
Dee Doyle, Licensing Administrator, Naturopathic Physicians Medical Board

I. **Call to Order:** The meeting was called to order at 8:04 a.m.

II. **Roll Call:** All Board members were present at roll call except for Ms. Miles who arrived at 8:35 a.m.

Margaret Whelan and Dee Doyle were present as acting staff.
Assistant Attorney General, Frankie Shinn-Eckberg was present.

III. Administration of Licensing exams for the following podiatrist applicants:

1. Au, Edward
2. Bhamra, Inderjeet
3. Broaddrick, Kevin
4. Donaldson, Aaron
5. Hooker, Justin
6. Huish, James
7. Kennedy, Katherine
8. Martin, Richard
9. McPhee, Jared
10. Richardson, Phillip
11. Yetter, Marcus

Dr. Campbell moved to go into executive session at 8:05 a.m. to administer licensing exams to the above applicants.

The Board reconvened regular session at 8:25 a.m.

IV. Review, Discussion and Possible Action:

- a. Review and follow-up of personnel action regarding the Executive Director
 - i. Update from Human Resources
 - ii. Update on financials and time record for Executive Director
 - iii. Update on legal issues from AAG Robert Sokol
 - iv. Human Resources liaisons Susan Lawrence and Kelly Hutson

Board President update on Executive Director's activities

There was no Legal or Human Resources update from ADOA as Ms. Maves was unable to attend the meeting. The Board was updated by the State Boards Office regarding time records for Ms. Penttinen. Susan Lawrence appeared before the Board to discuss options for hiring a temporary position while Ms. Penttinen is on leave

V. Discussion of interview questions and other requirements for initial interviews-Arizona Department of Administration (ADOA):

- a. Interview questions provided by ADOA

Dr. Campbell moved to go into executive session for the purpose of discussing interview questions and for obtaining legal advice. Ms. Miles seconded the motion. The Board went into executive session at 9:47 a.m.

The Board reconvened regular session at 10:15 a.m.

VI. Review and consideration of candidates for initial interviews for temporary staff:

- a. Brian Nicolas
- b. Jonathan Randle
- c. Kelsey Nordahl
- d. Tammy Sunvold
- e. Sherry Morris

One candidate was present for interview; candidate d.-Tammy Sunvold. Candidate e.-Sherry Morris requested to be interviewed at the July Board meeting.

Dr. Campbell moved to go into executive session to interview Ms. Sunvold. Ms. Miles seconded the motion. The Board went into executive session at 10:16 a.m.

The board reconvened regular session at 10:57 a.m.

Ms. Miles moved to offer a job in a temporary capacity to applicant f.- Tammy Sunvold at the rate of pay discussed in executive session. Dr. Kaplan seconded the motion.

VII. Approval of Minutes

- a. May 13, 2015 Regular Session Minutes
- b. May 13, 2015 Executive Session Minutes
- c. May 13, 2015 Second Executive Session Minutes

Dr. Kaplan moved to approve item a. as written. Dr. Rhodes seconded the motion.
Motion passed 4-0

Mr. Rhodes moved to approve item b. as written. Dr. Kaplan seconded the motion.
Motion passed 4-0

Mr. Rhodes moved to approve items c. as written. Dr. Kaplan seconded the motion.
Motion passed 4-0

VIII. Review, Discussion, Approval and Possible Action-Renewal of Licensure

RENEWALS RECEIVED AS OF JUNE 8, 2015

	Disp		Disp		Disp
Abraham, Suzanne	Yes	Hunchak, Whitney	No	Reese, Hewitt	No
Abrams, Steven	Yes	Jarman, Mikkel	No	Richards, Kathleen	Yes
Allen, Jason	Yes	Jeidzic, Kristina	No	Robison, Glen	Yes
Armstrong, David	No	Kaplan, Barry	Yes	Rosales, Mark	Yes
Askari, Shahram	Yes	Kaufman, Ira	No	Rowe, Kenneth	Yes
Axt, Steven	No	Kelly, Edward	Yes	Rowland, Roberta	No
Bangart, Daniel	Yes	Killian, Ronald	No	Schulman, Daniel	Yes
Bangart, Keith	Yes	Klebe, Lester	Yes	Shih, Alan	Yes
Barrett, Stephen	Yes	Klotzbach-Larios, Tosha	No	Shumway, Don	Yes
Beecroft, Carl	Yes	Knochel, John	No	Sidoriak, Peter	No
Bernstein, Randy	No	Knochel, Joseph	Yes	Siegel, Donald	Yes
Bocian, Darin	Yes	Kratzer, Duane	No	Silverstein, Glenn	No
Bodmer, Edward	Yes	Kroyn, Jean	Yes	Simmons, Shawn	Yes
Boggs, Scott	Yes	Lamster, Todd	Yes	Stegman, Michael	Yes
Bui, Alex	Yes	Leach, Kimberly	Yes	Stewart, Alex	Yes
Burns, Ana	Yes	Lee, Herbert	No	Su, Antonius	Yes
Campbell, Barbara	No	Leonetti, Michael	No	Taxier, Wesley	No
Charsky, John	No	Leonetti, William	Yes	Teausant, Alicia	Yes
Chesler, Sanford	No	Levin, Bruce	Yes	Thomas, Jeffrey	Yes
Clement, Dean	No	Lew, Eric	No	Tutnauer, Phillip	No
Cohen, Richard	No	Little, Mark	No	Walters, Jodi	No
Connell, Charles	Yes	Longton, James	Yes	Warheit, Michael	No
Cornfield, Michael	No	Marin, John	Yes	Warner, Paul	No
Crampton, Scott	Yes	Martin, Smith	No	Werber, Bruce	Yes
Dancho, James	No	McKay, Cameron	Yes	Wessel, Loren	Yes
DiMatteo, Dennis	No	McLaws, Ivan	Yes	Woodward, Paul	Yes
DiNucci, Kris	No	McLaws, Ivan	Yes	Wyant, Scott	Yes
Discount, Alen	Yes	Mecham, Brandon	Yes	Zang, Kerry	Yes
Dobkin, Marvin	Yes	Montes, Edvardo	Yes	Zielsdorf, Lee	No
Dobrusin, Joseph	Yes	Moyer, Wayne	Yes		
Erotas, John	Yes	Nakra, Aprajita	No		
Feinberg, Dale	Yes	Newswander, Bradley	Yes		
Fiorino, John	No	Nguyen, Vu	Yes	Selander, Paul-Retired	
Fishco, William	Yes	Nixon, Brent	No		
Freed, Lewis	Yes	Novack, Robert	Yes		
Fridrich, Robert	Yes	O'Brien, Kevin	No		
Friedman, Erwin	No	Palmquist, Roland	Yes		
Frykberg, Robert	No	Panahi, Kaveh	No		
Geller, Louis	No	Paul, Marie	No		

Gooch, David	Yes	Payam, Sarraf	Yes
Granone, Julia	No	Peters, Mary	Yes
Gunzy, Todd	Yes	Polakof, Arlene	No
Haddon, Todd	Yes	Polakof, Dedrie	No
Hatch, Daniel	No	Powlowski, Jeffrey	Yes
Hegewald, Kenneth	No	Prebish, Jessica	No
Horvath, Mia	Yes	Price, Jess	Yes
Howansky, Petrusia	Yes	Reber, Kelly	No
Hunchak, Derek	No	Reber, Travis	No

Dr. Campbell moved to block vote approval of renewals not including Dr. Barry Kaplan and Dr. Barbara Campbell and those administratively deficient; and directed staff to open a complaint on falsified applications. The Board directed staff to review and renew the applications that are complete once the administrative deficiencies are met. Dr. Kaplan seconded the motion. Motion passed 4-0

Board members Mr. Rhodes, Ms. Miles, and Dr. Kaplan reviewed the renewal application for Dr. Barbara Campbell. Ms. Miles moved to accept the renewal application and renew the license for Dr. Barbara Campbell. Mr. Rhodes seconded the motion. Motion passed 3-0. Dr. Campbell recused.

Board members Mr. Rhodes Ms. Miles and Dr. Campbell reviewed the renewal application for Dr. Barry Kaplan. Ms. Miles moved to accept the renewal application renew the license for Dr. Barry Kaplan. Mr. Rhodes seconded the motion. Motion passed 3-0. Dr. Kaplan recused.

IX. Review, Discussion and Possible Action – Review of Complaints

A. Initial Review

a. 11-38-C – Alex Bui, DPM

This is a colleague complaint against Dr. Bui that while he was on suspension there was some billing under another doctor's provider number. Ms. Miles moved to assign this case to investigator for further review. Dr. Kaplan seconded the motion. Motion passed 4-0.

b. 13-16-C – Adam Lu, DPM

Dr. Lu performed a bunionectomy in 2006 on the patient where he did a base wedge; the patient is still in pain and saw another podiatrist. Dr. Gollum noted that the previous surgery performed by Dr. Lu caused the new pain. The patient had a second surgery by another podiatrist. Ms. Miles moved to assign this case an investigator for further review. Dr. Kaplan seconded the motion. Motion passed 4-0.

c. 14-16-C – Daniel Saunders, DPM

Patient had gone in for second MPJ claiming she feels the injections when the doctor does them and that he ruptured a tendon. The patient was then seen by Dr. Harrell who performed surgery. Dr. Saunders did not give informed consent to the patient; therefore, Dr. Saunders may have fallen below the standard of care. Ms. Miles moved to assign to investigator for further review. Mr. Rhodes seconded the motion. Motion passed 4-0.

d. 14-20-C – Viedra Ellison, DPM

This case was continued to the next regularly scheduled Board meeting as Dr. Ellison requested an extension.

e. 14-29-C – Brad Hayman, DPM

The doctor performed subtalar joint arthrodesis. Without more information regarding the surgery, the Board would like to see the expert witness testimony in the malpractice case and the patient records. Ms. Miles moved to assign this case investigator for further review. Dr. Kaplan seconded the motion. Motion passed 4-0.

f. 14-31-C – Joel Bowen, DPM

Dr. Bowen became part of Dr. Cohn's practice in 2012. He has not kept up with the medical records and is now going in to practice with Dr. Bangart, leaving the medical records incomplete. Ms. Miles moved to assign this case investigator for further review. Dr. Kaplan seconded the motion. Motion passed 4-0.

B. Investigator presentation

a. 13-18-C – Michael Brewer, DPM

Dr. Kaplan moved to dismiss the complaint due to lack of violation of the podiatric practice act. Ms. Miles seconded the motion. Motion passed 4-0.

b. 13-19-C – Brian Allen, DPM – Initial review

Ms. Miles moved to dismiss the complaint due to lack of violation of the podiatric practice act. Dr. Campbell seconded the motion. Motion passed 4-0.

c. 14-02-C – Deo Rampertab, DPM Board review of CME and approval

Dr. Cohen presented his investigative reports stating that Dr. Rampertab was cooperative with the inspection.

Mr. Crawford, attorney for Dr. Rampertab was present and addressed the Board stating that Dr. Rampertab has charged under codes he thought were appropriate and that he can bill based on time spent with the patient. Mr. Crawford stated that the unna boots Dr. Rampertab makes are custom strapping and that's why the code was used. Dr. Rampertab stated that he drastically changed his practice since the April 8, 2015 Board meeting where he learned that his practices may not have been completely appropriate. Mr. Crawford asked the Board if they would like Dr. Rampertab to attend a coding and billing seminar and offer that Dr. Rampertab would sign a consent agreement for a non-disciplinary order of continuing medical education. Mr. Rhodes asked Dr. Rampertab who does the billing in his office. Dr. Rampertab have stated he did the billing himself.

Dr. Campbell moved to go into executive session for the purpose of legal advice at 11:43 a.m. Mr. Rhodes seconded the motion.

The board reconvened regular session at 11:57 a.m.

The Board still had some issues regarding the billing and coding that they felt were fraudulent or inappropriate. The Board had some questions for Board counsel regarding civil penalties. Ms. Shinn-Eckberg stated she would research the issue and get back to the board at the July 22nd Board meeting.

Ms. Miles moved to go to informal interview for discussion of unprofessional conduct pursuant to A.R.S. 32-854.01(23)(24)(25). Dr. Kaplan seconded the motion. Motion passed 3-1. Mr. Rhodes voted no.

X. Review, Discussion and Possible Action and Update on Probation / Disciplinary Matters

a. 11-01-C – Kevin O’Brien, DPM

Dr. Campbell had some concerns with the timeline of CME taken. It appeared that one letter was possibly incorrectly dated by the doctor as the CME was in in February 2013 and was not acceptable as it was taken prior to the Board Order. The Board is questioning if the doctor did CME in the proper order. Dr. Kaplan inquired as to whether Dr. O’Brien took additional training to reinstate his surgical privileges. The Board directed staff to invite Dr. O’Brien to the July 22, 2015 Board meeting to discuss the CME and reinstatement of privileges.

b. 14-09-B – Janna Kroleski, DPM

Dr. Kroleski was not present at the meeting today she was not required to appear at this time pursuant to the provisions of her Order which requires her to appear quarterly. She will appear at the July 22, 2015 Board meeting at the start of the new quarter to report.

c. 14-18-B – Mark Pipher, DPM

The Board has requested and not received information regarding this case. Staff will follow up with Dr. Pipher to determine where he is in compliance with the order.

d. 14-24-B – Daniel Bangart, DPM: Compliance with Order issue/review

This was reviewed to determine whether or not Dr. Bangart had completed the 10-day suspension pursuant to his Order. Dr. Bangart e-mailed the Board informing them of the dates of the 10-day suspension and that it had been completed.

MOTION: Dr. Kaplan moved to accept the 10-day suspension as submitted by Dr. Bangart. Mr. Rhodes seconded the motion.

VOTE: Motion passed 4-0

e. 14-25-B – Kelvin Crezee, DPM: Status update regarding formal hearing

Ms. Shinn-Eckberg reported that this case review has been moved to July 22, 2015 Board meeting as the administrative law judge decision was received by the Board too late to properly notice the doctor of the meeting. Staff was directed to send notices to appear to Dr. Crezee and to request an extension from OAH for the response from the Board.

XI. Review, Discussion and Possible Action on Administrative Matters

a. Compensation Margaret Whelan, Dee Doyle and Jerome Cohn, D.P.M.

Ms. Miles moved to go into executive session for the purpose of discussing salaries of temporary personnel. Dr. Kaplan seconded the motion. The Board entered into executive session at 12:27 p.m. The board reconvened regular session at 12:45 p.m.

MOTION: Ms. Miles moved to offer the compensation to Ms. Doyle Ms. Whelan and Dr. Cohn as discussed in executive session. Dr. Kaplan seconded the motion.

VOTE: Motion passed 4-0.

b. Review of sample pain medication agreement

This item was inadvertently placed on the June agenda and was discussed at the May 13, 2015 Board meeting. No further action was taken.

c. Review of AzPMA request for CME credits

The Board reviewed the request from the AzPMA for continuing medical education. Dr. Kaplan moved to approve the courses submitted. Ms. Miles seconded the motion. Motion passed 4-0

XII. Executive Director's Report

- a. Budget
- b. Rules
- c. Board Office Administrative Update
- d. Complaint Status Update
- e. Fiscal Year End Reports
- f. Electronic Board Books
- g. Office furniture purchase

Ms. Whelan reported that the budget is healthy with a current beginning cash balance of \$139,029 an ending cash balance of \$105,875.

Ms. Whelan noted that when going through the e-mails in the office that there were several e-mails from a rule writer and that the Board may have opened a docket to promulgate rules. Ms. Whelan contacted the Secretary of State's office to find out the status of the rules package. There was a docket opening filed July 3, 2014 which was published in the Arizona Administrative Register on July 25, 2014. There were two sections of the rules that expired but no further explanation was available. Ms. Whelan had some concern that the rules were expired and didn't know if it was due to the fact that the rules were never promulgated, a five-year rules review was not submitted or the rules were intentionally expired. The notice of expiration of rules was published in the Arizona Administrative Register. Ms. Whelan stated she would do further research find out status of these two expired rules and how they came to be expired and report at July 22, 2015 Board meeting.

Board office administrative and complaint status updates: Ms. Whelan commended Ms. Doyle and Dr. Cohn for their outstanding work on processing and expediting the complaints and the licensure renewals as well as handling the daily duties of the agency. In the past month, Ms. Doyle has responded to at least 76 to 100 phone calls within 24-48 hours, completed 127 license renewals and sent out Board packets. Dr. Cohen is coming in to the office one to two days a week triaging complaints, getting them assigned out to investigators and back to the Board for discussion and completion. Ms. Whelan has opened 25 complaints since the May Board meeting, sent out 40 subpoenas for records regarding complaints that are waiting in the files and responded to numerous phone calls and e-mails from complainants and doctors with complaints.

Fiscal year end reports due are the five-year rules review report to the Governor's office, electronic funds usage report, Risk Management report and computer systems inventory. The budget is due by September 1 as well as the strategic plan. Ms. Whelan informed the Board that she would be able to work on the Board's budget for fiscal year 2017.

Ms. Whelan discussed the importance of using electronic materials for the Board meetings as opposed to photocopying all of the complaint files and materials necessary for the Board meeting. Lots of agencies have gone to electronic or digital board book materials as it is part of the Governor's initiative for lean government to move towards electronic means whenever possible. Ms. Whelan went through the process of how the electronic Board materials would work and that the files are scanned in at the office and sent out on a flash drive to the Board members. Ms. Miles asked about the ability to index the agenda to coordinate with the items on the agenda so that the members would not have to scroll through entire files. Staff was directed to ask the medical board about the software they use in order to organize the materials and that they would prefer that the materials be put on a flash drive at this time and sent out to the Board members. Ms. Whelan informed the Board that if they were to go this direction, now would be the time to purchase computers for the Agency seeing as how they do have some cash left in this fiscal year. Ms. Whelan requested that the Board approve a request to purchase six laptop computers for use at Board meetings. In conjunction, Ms. Miles had some concerns about the future staffing needs and the budget and wanted to move forward with approving an increase to the Agency appropriation on a permanent basis to establish another full-time position as well as purchase the computers and flash drives.

MOTION: Ms. Miles moved to authorize two FTEs to include one Executive Director (existing) and one full-time administrative position to be put in the fiscal year 2017 budget, if not an emergency budget for fiscal year 2016. Mr. Rhodes seconded the motion.

VOTE: Motion passed 4-0

The office furniture purchase of a standup desk was a special order and could not be returned to the company. Therefore the agency must accept delivery of the order and pay for it accordingly.

XIII. Call To The Public

Those wishing to address the Board do not need to request permission in advance; however, the Board may limit those persons speaking during this time to a reasonable number on any given public matter. In addition, each person wishing to address the Board will be given five (5) minutes to do so. Pursuant to A.R.S. § 38-431.01(H), the Board can only take action on matters listed on the agenda. Action on public comment matters that are not listed on the agenda will be limited to directing staff to study the matter or to schedule the matter for further discussion at a later date.

Dr. Campbell made a call to the public at 1:24 p.m. No was present to address the Board.

XIV. Next Board Meeting Date:

g. July 22, 2015 at 8:30 a.m.

The Board agrees that the next board meeting date is moved from July 8 to July 22, 2015 at 8:30 a.m. in the B-2 conference room.

XV. Adjournment

Ms. Miles moved to adjourn the meeting. Dr. Kaplan seconded the motion. Meeting was adjourned at 1:27 p.m.