



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; John Rhodes, Public Member;
M. Elizabeth Miles, Public Member, Sarah Penttinen, Executive Director

Final Regular Meeting Minutes
May 13, 2015 8:30 a.m.

May 13, 2015 8:30 a.m.
1400 West Washington St., B1
Phoenix, AZ 85007

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

Board Members Absent: None

Assistant Attorney General: Frankie Shinn-Eckberg
John Tellier

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 8:33 am.

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

Margaret Whelan and Dee Doyle were present as acting staff. Assistant Attorneys General, Frankie Shinn-Eckberg and John Tellier were present.

III. Approval of Minutes:

a. March 11, 2015 Regular Session Minutes

MOTION: Ms. Miles moved to accept item a. as written. Mr. Rhodes seconded the motion.

VOTE: The motion passed unanimously by voice vote.

b. March 11, 2015 Executive Session Minutes

MOTION: Ms. Miles moved to accept item b. as written. Dr. Kaplan seconded the motion.

VOTE: The motion passed unanimously by voice vote.

c. March 27, 2015 Special Meeting Regular Session Minutes

MOTION: Dr. Leonetti moved to accept item c. as written. Mr. Rhodes seconded the motion.

VOTE: The motion passed unanimously by voice vote.

d. March 27, 2015 Special Meeting Executive Session Minutes

MOTION: Dr. Leonetti moved to accept item d. as written. Ms. Miles seconded the motion.

VOTE: The motion passed unanimously by voice vote. Dr. Kaplan recused from the discussion and vote.

MOTION: Ms. Miles moved to reopen item d. for discussion and reconsideration. Dr. Leonetti seconded the motion.

VOTE: The motion passed unanimously by voice vote. Dr. Kaplan recused from the discussion and vote.

DISCUSSION: Ms. Miles reminded the Board that these executive session minutes were approved at the April 8, 2015 meeting and may have been placed on this agenda in error. Therefore, consideration of these minutes is withdrawn as they were already approved at the April 8, 2015 Board meeting.

e. April 8, 2015 Regular Session Minutes

DISCUSSION: The Board noted that the times for executive session were missing from page two of the draft minutes and that the names of the members making and seconding the motion on item 6e. are missing. Staff was directed to revise those sections for approval of the minutes with noted revisions.

MOTION: Ms. Miles moved to accept item e. as amended. Dr. Kaplan seconded the motion.

VOTE: The motion passed unanimously by voice vote.

f. April 8, 2015 Executive Session Minutes

DISCUSSION: The Board noted that the date of the executive session was missing as well as the start time of the executive session. Staff was directed to revise those sections for approval of the minutes with noted revisions.

MOTION: Ms. Miles moved to accept item f. as amended. Dr. Kaplan seconded the motion.

VOTE: The motion passed unanimously by voice vote.

g. April 17, 2015 Regular Session Minutes

DISCUSSION: The Board noted that the adjournment time (12:15 p.m.) was missing. Staff was directed to revise for approval of the minutes with noted revision.

MOTION: Dr. Kaplan moved to accept item g. as amended. Ms. Miles seconded the motion.

VOTE: The motion passed unanimously by voice vote.

h. April 17, 2015 Executive Session Minutes

MOTION: Dr. Kaplan moved to accept item h. as written. Ms. Miles seconded the motion.

VOTE: The motion passed unanimously by voice vote.

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

None.

V. Review, Discussion and Possible Action – Probation / Disciplinary Matters

a. 14-09-B – Janna Kroleski, DPM: Monthly update

Dr. Kroleski appeared before the Board stating she is doing well and is compliant with the current Order. She is working full-time and teaching at Midwestern University part-time. Dr. Kroleski asked about a submitted written request to send a letter to Paradise Valley Hospital for credentialing that she needed in order to continue to practice. The Board directed staff to send a letter of current compliance at this time. This case will continue to be monitored and reported at the next Board meeting.

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

Mr. Tellier updated the Board stating that the Administrative Law Judge (“ALJ”) has 20 days after the hearing to render a decision and that the hearing itself went very well. The hearing record was held open for an additional 10 days until April 24, 2015 due to a court reporter being present, at which time the 20- day timeframe began and has not yet expired as of today's meeting. Mr. Tellier stated the hearing lasted all day and voluminous testimony was heard. Staff was directed to obtain the ALJ’s decision when it becomes available in the middle of May and put it on the next Board meeting for discussion.

c. 09-02-C and 09-21-C- J. David Brown, DPM: consent agreement, monthly update and request for CME approval

Dr. Brown resubmitted the Continuing Medical Education (“CME”) approval from the last meeting. The Board needed to know if the course met the requirements of the Consent Agreement and Order. The Board reviewed the materials submitted and determined that it did indeed meet the requirements to fulfill the Order. Mr. Bruce Crawford, attorney for Dr. Brown was present to address the Board regarding the attempts to reimburse the insurance pursuant to the Order. He stated Dr. Brown had made several attempts to resolve the situation and was therefore compliant with that portion of the Order as well. Mr. Crawford asked the Board if they voted to accept the CME and reimbursement attempts to send a letter stating that the doctor has complied with the terms of the Order.

MOTION: Dr. Leonetti moved to accept the CME courses and reimbursement explanation submitted to fulfill the terms of the Consent Agreement and Order and to send a compliance letter to Dr. Brown. Mr. Rhodes seconded the motion.

VOTE: The motion passed unanimously by voice vote.

d. 11-01-C –Kevin O’Brien, DPM: Monthly update

The Board reviewed the Continuing Medical Education (“CME”) request submitted to meet the requirements of the Order for the Consent Agreement. The Board noted that one course was taken after the February 14, 2014 deadline and as such a complaint was opened due to noncompliance with time frames of the Order. Dr. Leonetti noted that it appeared there have been some communication issues regarding submission of the CME courses for approval and requested that the complaint be tabled to further review of this portion of the complaint; staff was directed to investigate further regarding receipt of records for the CME.

- e. 14-18-B –Mark Pipher, DPM: Monthly update

A subpoena was sent to the Motor Vehicle Department on April 10, 2015 for records pertaining to an interlock system that was requested for Dr. Pipher's car. To date, no records have been received back to the Board. Dr. Campbell directed staff to check for the letter to/from the MVD and report back at the next meeting.

- f. 15-07-B- Kevin O'Brien, DPM; Consent Agreement

The Board held no discussion and tabled this matter in order to properly place on a future agenda as a complaint.

- g. 15-08-B- Valerie Schade, DPM: Self Report

This issue is a self-report regarding prescription writing. The Board voted to offer a Consent Agreement for a Decree of Censure for intentionally aiding an employee in unlawfully acquiring and obtaining possession of a controlled substance.

- h. 15-09-B- Joseph Knochel, DPM: Self Report

This was a self-report issue regarding possible criminal conviction. The Board held no discussion and tabled this matter in order to properly place on a future agenda as a complaint.

- i. 14-24-B- Dan Bangart, DPM: Consent Agreement

Dr. Bangart sent a notice to the Board stating he completed his 10-day suspension pursuant to the Order; however the Board does not have any verification the suspension being served. The Board directed staff to send a letter to the doctor asking for the specific dates of suspension and how the suspension was served.

VI. Review, Discussion and Possible Action on Administrative Matters

Review of new license applications for the following persons:

- i. Phillip Richardson
- ii. Inderjeet Bhamra
- iii. Aaron Donaldson
- iv. Richard Martin

MOTION: Dr. Kaplan moved to approve items i., ii., iii., and iv. and issue, upon successful passing of the licensing exam, a license at the June 10, 2015 meeting. Dr. Leonetti seconded the motion.

VOTE: The motion passed unanimously by voice vote.

- b. Special Consideration Request from David G. Armstrong DPM, MD, PhD, SALSA
 - i. Sara Mahmood

Dr. Armstrong submitted a letter to the Board requesting expedited approval of applicant Sarah Mahmood in order for her to sit for the June exam. Ms. Miles stated she did not see the “dire circumstances” under which the Board would make an exception to the time frames for this applicant, as the requirements in the statutes and rules are clear as to what is to be completed in order to sit for the exam, etc.

MOTION: Ms. Miles moved to deny the request for expediting the application as the time frames were not met. Dr. Kaplan seconded the motion.

VOTE: The motion passed unanimously by voice vote

- c. Substantive Policy Statement regarding meeting minutes

Ms. Miles moved to go into executive session to obtain legal advice regarding keeping the audio recording of a meeting versus keeping written minutes. Dr. Campbell seconded the motion.

The Board went into executive session at 9:50 a.m.
The Board reconvened regular session at 9:55 a.m.

The Board discussed the need for proper documentation/representation of Board meetings and directed staff to draft a substantive policy on written meeting minutes.

- d. Malpractice case report

None.

- e. Informed Consent and Narcotic Medication Treatment Agreement

This was submitted to the Board by Ms. Penttinen as an informational matter only. The Board did not see how the issue is pertinent to the regulatory Board function. No action was taken at this time.

- f. Advertisement: Kevin J. O'Brien DPM

Ms. Miles questioned as to whether Dr. O'Brien is practicing outside the scope of practice and if the advertisement is misleading. Ms. Miles moved to open a complaint to discuss the matter further. Dr. Leonetti seconded the motion.

g. Arizona Pharmacy Board Prescription Monitoring Program

Dr. Campbell advised the Board that a notice regarding the mandatory registration of the Prescription Monitoring Program went out with all of the renewals this year.

h. Midwestern University Clinical Training Sites vetting process/criteria

Information has been requested by the Board however nothing has come into the Board offices yet regarding this issue.

i. Board Policy for approval of podiatry student's externship/clerkship programs

Dr. Page is submitting to the Board the offices where students are sent. The Board discussed whether or not they were comfortable with how these offices were being vetted and by whom, and requested that staff draft a substantive policy statement regarding what criteria the Board would like to see approved. At a minimum, the Board felt the vetting process should include externships and that preceptors should be currently licensed, active, in good standing with the Board and CPME be approved by an accredited program.

j. Review of Addiction Medicine Specialists.

The Board directed staff to contact other Boards to see their processes and report back for the June or July Board meeting.

k. Dr. Sucher: review of addiction medicine specialists procedures.

Dr. Sucher was scheduled to appear for the Board today to discuss this issue however, there was a miscommunication and he was unable to appear at this time. The Board asked that this issue be put on the August Board meeting agenda and Dr. Sucher be invited to appear to further discuss this issue at that time.

l. 11-16-C Aprajita Nakra, DPM: Update on information request from civil proceedings

Ms. Penttinen had previously provided an update however it did not appear there was a final disposition of the court case at that time. The Board directed staff to obtain the final disposition of the court case, expert witness depositions, the court transcription and the jury instruction in order to complete the investigation and review this complaint.

VII. Executive Director's Report – Review, Discussion and Possible Action

- a. Open complaint status report.

Dr. Campbell reported that she went to the Board offices after the March Board meeting. There were three new complaints waiting to be opened. She reviewed the complaint log to determine where the open complaints were to determine where in the process they are and to expedite them to the next appropriate Board meeting if they are ready to be heard. She noted that the office needs organization of complaints and administrative functions.

VIII. Call To The Public

Dr. Campbell made a call to the public at 11:33 a.m. No one was present to address the Board.

IX. Review, Discussion and Possible Action

- a. Review of, and follow-up to, personnel action regarding the Executive Director.
1. Update from Human Resources
 2. Update on financials and time record for Executive Director
 3. Update on legal issues from AAG Robert Sokol
 4. Board President's update on Executive Director's activities

The Board went into Executive Session at 8:37 a.m.
The Board reconvened Regular Session at 9:28 a.m.

MOTION: Dr. Campbell moved to have ADOA Human Resources pursue all avenues to temporarily fill the Executive Director position and a possibly a part-time administrative position in the office.
Mr. Rhodes seconded the motion.

VOTE: The motion passed unanimously by voice vote

X. Review, Discussion, Interview Candidates for Employment

- a. Sr. Licensing Tech PDQ Medical Board
- b. Management Intern Program

Ms. Maves shared with the Board some qualifications of and needs for a Senior Licensing Technician or Management Intern Program Specialist to temporarily perform the Executive Director duties at the Agency.

XI. Next Board Meeting Date:

- a. June 10, 2015 licensing exams 8:00 a.m.
- b. June 10, 2015 regular Board meeting 8:30 a.m.

The Board discussed that it will be administering licensing exams prior to the start of Board meeting on June 10, 2015. Licensing exams shall begin at 8:00 a.m. with the regular Board meeting immediately following the exam.

XII. Adjournment

Dr. Kaplan moved to adjourn the meeting at 11:42 a.m. Mr. Rhodes seconded the motion. The meeting was adjourned at 11:42 a.m.