



Arizona State Board of Podiatry Examiners
"Protecting the Public's Health"

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Douglas A. Ducey, Governor

OPEN SESSION MINUTES

February 14, 2018

Members of the Arizona State Board of Podiatry Examiners ("Board") held a meeting at 8:36 a.m. on Wednesday, February 14, 2018 at the Board's office in Conference Room C, 1740 West Adams St., Suite 3004, Phoenix, Arizona 85007. Executive session was held from 9:07 a.m. to 9:31 a.m.

BOARD MEMBERS:

- Barbara Campbell, DPM..... Board President and Practitioner Member
John Rhodes ..... Secretary and Public Member
Lynn Hamilton ..... Public Member
Barry Kaplan, DPM. .... Practitioner Member
Joseph Leonetti, DPM..... Practitioner Member

STAFF AND ASSISTANT ATTORNEY GENERAL PRESENT:

- Kristina C. Gomez ..... Executive Director
Frankie Shinn-Eckberg, Esq..... Assistant Attorney General

GUEST(S) PRESENT AND/OR PARTICIPATING

- Jerome A. Cohn, DPM..... Board's Investigator
Dedrie M. Polakof, DPM ..... Board's Investigator
Barbara Aung, DPM..... Board's Investigator
Kent L. Peterson, DPM..... Respondent
Donn C. Alexander, Esq. .... Respondent's Attorney
Erin Martin, DPM ..... Respondent
William S. Sowders, Esq. .... Respondent's Attorney
Andrew A. Lowy, DPM..... Respondent
Bruce Levin, DPM ..... Respondent
Bruce D. Crawford, Esq. .... Respondents' Attorney
Complainant..... Investigative Case 17-16-C



Participated telephonically

OPEN SESSION

The meeting was called to order at 8:36 a.m. by Dr. Barbara Campbell. The following order of business was then considered:

The Americans with Disabilities Act: Persons with disabilities may request reasonable accommodations, such as sign language interpreters. Requests should be made as early as possible to allow time to arrange the accommodation. This document is available in alternative format upon request.

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

No new conflicts were declared.

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

Investigation File(s)

15-06-C; Peterson, Kent, DPM

Dr. Kent L. Peterson was present, along with his legal counsel, Donn C Alexander. Dr. Barbara Aung participated telephonically to provide a summary of her investigative report. Dr. Aung summarized her review regarding improper billing and documentation. Mr. Alexander summarized Dr. Peterson's own improvement plan. Dr. Peterson responded to questions from 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 Ms. Lynn Hamilton and passed unanimously to go into executive session at 9:07 a.m. to seek legal pursuant to A.R.S. § 38-431.03(A)(3) regarding file no 15-06-C.

After consideration in executive session, the Board reconvened in open session at 9:31 a.m.

**OPEN SESSION**

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

Investigation File(s)

15-06-C; Peterson, Kent, DPM

After discussion, a motion was made by Ms. Lynn Hamilton, seconded by Mr. John Rhodes and passed unanimously to offer Dr. Peterson a consent to probation for two years, submit to the Board a list of patients he has treated by the 10<sup>th</sup> day of the following month, random chart audit by the Board of 10 patient medical records, civil penalty of \$2,000, Board approved continuing education at least 10 hours in billing and coding, medical recordkeeping and documentation. If the consent agreement presented to Mr. Alexander and his client is not agreed upon or countered in 20 days, the matter will be moved to an informal hearing. The motion passed 5 – 0 by the following roll call vote:

Dr. Joseph Leonetti – Aye  
Dr. Barbara Campbell – Aye  
Dr. Barry Kaplan – Aye  
Mr. John Rhodes – Aye  
Ms. Lynn Hamilton – Aye

17-16-C; Martin, Erin, DPM

Dr. Erin Martin was present, along with her legal counsel, William S. Sowders. Dr. Barbara Aung participated telephonically to provide a summary of her investigative report. Dr. Aung summarized her review regarding documentation and patient's care. Mr. Sowders summarized Dr. Martin's matter and her notes of patient care and treatment. Dr. Martin responded to questions from the Board.

After discussing the matter, a motion was made by Dr. Campbell and seconded by Dr. Kaplan and passes unanimously issue an Administrative letter of Concern (“LOC”) regarding Dr. Martin’s lack of maintaining adequate records on the patient and potentially have better managed the patient’s care. The case was dismissed with a LOC.

*The Board took a break from 10:44 a.m. to 10:59 a.m.*

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

### Investigation File(s)

#### 16-09-B; Lowy, Andrew, DPM

Dr. Andrew Lowy was present, along with his legal counsel, Mr. Bruce Crawford. Dr. Dedrie Polakof provided a summary of her investigative report regarding patient’s surgery, therapy and treatment of patient. Mr. Crawford summarized Dr. Lowy’s detailed documentation of the patient’s care. Dr. Lowy took the opportunity to respond to the allegations of the complaint.

After discussion, a motion was made by Mr. Rhodes, and seconded by Dr. Kaplan and passed unanimously to dismiss the case due to no violations of Board Statutes and Rules.

#### 17-17-C; Levin, Bruce, DPM

Dr. Bruce Levin was present, along with his legal counsel, Mr. Bruce Crawford. Dr. Jerome Cohn provided a summary of his investigative report. Dr. Cohn summarized his review regarding over using billing code and cortisone injections. Dr. Levin made a statement to the Board regarding the matter.

Dr. Kaplan recommended six-month monitoring of patient records, the matter is table until the audit is completed. A letter will be sent to Dr. Levin with the discussed criteria required for the continued investigation.

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

### Discussion and approval of the Open Session Minutes from the December 13, 2017 board meeting

A motion was made by Dr. Barbara Campbell, seconded by Mr. Rhodes and passed unanimously to approve the Open Session Minutes from the December 13, 2018, board meeting as amended.

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

### Application(s) for Registration to Dispense Drugs/Devices – A.A.C. R4-25-602

#### 1. Garcia, David, DPM

A motion was made by Dr. Barbara Campbell, seconded by Dr. Joseph Leonetti and passed unanimously for licensee to dispense drugs/devices, after review of the application(s).

## **EXECUTIVE DIRECTOR’S REPORT**

The Board reviewed the budget, agency operations and complaint log with Kristina C. Gomez. Summarize the passing of HB 2256 at the House Health Committee. The discussion regarding the licensing examination process is tabled until the next Board meeting

## **SUMMARY OF CURRENT EVENTS**

None were discussed.

**CALL TO THE PUBLIC**

No one was present from the public.

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

None were discussed.

**NEXT BOARD MEETING DATE**

Wednesday, March 14, 2018 at 8:30 a.m.

**ADJOURNMENT**

A motion was made by Dr. Barbara Campbell, seconded by Mr. John Rhodes and passed unanimously to adjourn at 12:36 p.m.