



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

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Douglas A. Ducey,
 Governor

OPEN SESSION MINUTES

January 13, 2016

Members of the Arizona State Board of Podiatry Examiners ("Board") held a meeting at 8:37 a.m. on Wednesday, January 13, 2016 at the Board's office in Suite B-1, 1400 West Washington Street, Phoenix, Arizona 85007. Executive sessions were held from 8:50 a.m. to 8:56 a.m., from 10:05 a.m. to 10:18 a.m., from 12:16 p.m. to 12:24 p.m. and from 1:26 p.m. to 1:30 p.m.

BOARD MEMBERS:

- Barbara Campbell, D.P.M..... Board President and Practitioner Member
- John Rhodes Secretary and Public Member
- Barry Kaplan, D.P.M. Practitioner Member
- ⌚ Joseph Leonetti, D.P.M..... Practitioner Member
- M. Elizabeth Miles, Esq..... Public Member
- ⌚ Left the meeting at 1:32 p.m.

STAFF PRESENT:

- Ryan P. Edmonson..... Executive Director
- Frankie Shinn-Eckberg Assistant Attorney General
- ⌚ Dee Doyle Administrative Assistant
- ⌚ Left the meeting at 10:53 a.m.

GUESTS PRESENT AND/OR PARTICIPATING

- Sarah Penttinen Former Executive Director
- Mark A. Rosales, D.P.M..... Respondent
- Donn C. Alexander, Esq. Respondent's Attorney
- Dedrie Polakof, D.P.M..... Board Investigator
- Janna L. Kroleski, D.P.M..... Respondent
- Jerome A. Cohn, D.P.M..... Board Investigator
- Richard E. Quint, D.P.M..... Respondent
- Bruce C. Smith, Esq..... Respondent's Attorney
- Travis S. Jensen, D.P.M..... Respondent
- Jon D. Brown, D.P.M..... Respondent
- Bruce D. Crawford, Esq..... Respondents' Attorney
- Complainant..... Investigative Case 15-23-C

The meeting was called to order at 8:37 a.m. by Dr. Barbara Campbell. The following order of business was then considered:

OPEN SESSION

REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING THE BOARD'S OPEN SESSION MINUTES FROM THE AUGUST 24, 2015 SPECIAL BOARD MEETING

Sarah Penttinen was present to address the Board. Ms. Penttinen stated reasons why she believes that the August 24, 2015 Special Board Meeting Minutes are inaccurate and mischaracterize her in regard to her resignation as the Board's executive director.

A motion was made by M. Elizabeth Miles, seconded John Rhodes and passed unanimously reopen the August 24, 2015 Special Board Meeting Minutes for reconsideration.

The Board discussed Ms. Penttinen's letter and her concerns contained therein.

The Board discussed going into executive session to seek legal advice.

EXECUTIVE SESSION

A motion was made by M. Elizabeth Miles, seconded by Dr. Joseph Leonetti and passed unanimously to go into executive session at 8:50 a.m. to seek legal pursuant to A.R.S. § 38-431.03(A)(3) regarding the August 24, 2015 Special Board Meeting Minutes.

After consideration in executive session, the Board reconvened in open session at 8:56 a.m.

OPEN SESSION

REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING THE BOARD'S OPEN SESSION MINUTES FROM THE AUGUST 24, 2015 SPECIAL BOARD MEETING

Sarah Penttinen was again present to address the Board. M. Elizabeth Miles briefly described the difficult circumstances for both parties involved in the August 24, 2015 meeting. Ms. Miles also agreed that she believed that Ms. Penttinen was able to write orders and that adding a word or two to the minutes would change the context of what the Board believed about Ms. Penttinen's ability to write orders. The Board did, however, believe that the minutes accurately reflect that Ms. Penttinen was not terminated by the Board, nor was there a motion to that affect and by stating that the Board accepted her resignation in lieu of termination does not mischaracterize Ms. Penttinen. The Board also agreed that changing the vernacular regarding the adjournment would more accurately reflect that once the phone was terminated that no other discussion took place between any of the Board members.

After discussion, a motion was made by M. Elizabeth Miles, seconded John Rhodes and passed unanimously to accept and amend the aforementioned and agreed upon amendments to the August 24, 2015 Special Board Meeting Minutes.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTIONInformal Hearings13-10-C; Rosales, Mark A., D.P.M.

Dr. Mark A. Rosales was present along with his legal counsel, Donn C. Alexander. The complainant was not present. Dr. Dedrie Polakof was present and provided a summary of her investigation. The Board questioned Dr. Rosales' billing codes and the excess amount he billed his client(s). Dr. Rosales provided an explanation for his office's billing practices.

After discussion, a motion was made by M. Elizabeth Miles, seconded by Dr. Joseph Leonetti and passed 4 – 1 to issue a non-disciplinary order for continuing medical education ("CME"), to include 10 CME hours in the areas of billing and coding and 10 CME hours in the areas of medical records and documentation. The CME is to be in addition to the statutorily required CME, the doctor must submit his CME plan to the Board within 30 days from the date of the order for pre-approval of requested courses and the CME must be completed with 60 days of the Board's approval date.

Dr. Barry Kaplan voted against the motion.

14-02-C; Rampertab, Deo, D.P.M.

Frankie Shinn-Eckberg requested that the Board go into executive session to allow her an opportunity to provide them with some legal advice.

EXECUTIVE SESSION

A motion was made by Dr. Barbara Campbell, seconded by M. Elizabeth Miles and passed unanimously to go into executive session at 10:05 a.m. to seek legal pursuant to A.R.S. § 38-431.03(A)(3) regarding file no 14-02-C.

After consideration in executive session, the Board reconvened in open session at 10:18 a.m.

OPEN SESSION**ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION**Informal Hearings14-02-C; Rampertab, Deo, D.P.M.

A motion was made by M. Elizabeth Miles, seconded by Dr. Joseph Leonetti and passed unanimously to table this matter for future Board action and to grant the Assistant Attorney General limited legal authority to settle the matter.

Review Compliance/Non-compliance with Consent Agreement14-09-B; Kroleski, Janna L., D.P.M.

Dr. Janna L. Kroleski was present to provide an update to the Board regarding her compliance with her Consent Agreement. The Board stated that they did not have the most current evaluation from Dr. Kroleski's evaluation doctor and requested that Dr. Kroleski provide the Board with the most recent quarterly evaluation.

The Board did not take any legal action.

Investigation Files

13-03-C; Burns, Ana, D.P.M.

Dr. Ana Burns and her legal counsel, Charles S. Hover, III waived their right to appear. The complainant was not present. Dr. Jerome Cohn was present and provided a summary of his investigation.

After the Board discussed the matter, a motion was made by Dr. Joseph Leonetti, seconded by John Rhodes and passed unanimously to dismiss the case due to no violations of Board Statutes and Rules.

15-02-C; Quint, Richard E., D.P.M.

Dr. Ricard E. Quint was present along with his legal counsel, Bruce C. Smith. The complainant was not present. Dr. Dedrie Polakof was present and provided a summary of her investigation. The Board asked questions regarding workers compensation claims and whether or not Dr. Quint understood that this matter was a workers compensation claim. Dr. Quint affirmed that he was aware that the matter was workers compensation claim. The Board questioned Dr. Quint's office staff's ability or inability to contact the complainant and or return the complainant's phone calls. Dr. Quint admitted that he was not aware of the number of times that the complainant contacted his office and excused the office behavior due to a transition from paper-system to a paperless system.

After the Board discussed the workers compensation claim, award letter and treatment of the complaint, a motion was made by John Rhodes, seconded by Dr. Joseph Leonetti and passed unanimously to dismiss the case due to no violations of Board Statutes and Rules.

The Board took a break from 11:37 a.m. to 11:48 a.m.

15-18-C; Jensen, Travis S., D.P.M.

Dr. Travis S. Jensen was present along with his legal counsel, Bruce D. Crawford. The complainant was not present. Dr. Jerome Cohn was present and provided a summary of his investigation. The Board requested to view the patient x-rays and agreed that the position of the foot was good at the time of the surgery, but the change was more likely due to the complainant's Charcot foot or diabetes versus the surgery itself.

A motion was made by Dr. Barbara Campbell and seconded by Dr. Barry Kaplan to dismiss the case due to no violations of Board Statutes and Rules.

Prior to the vote, Dr. Joseph Leonetti requested to reiterate that he reviewed all the medical records and charts in this matter and agreed with Dr. Cohn, believing that Dr. Jensen wrote up the right treatment and performed the surgery correctly and that a diabetic with neuropathy is going to have complications that will have nothing to do with a surgical procedure. The Board also granted Dr. Cohn's request to speak, who stated that Dr. Jensen's notes and documentation is the best he has seen while completing investigations for the Board.

After the discussion, Dr. Barbara Campbell called for the vote and the motion passed unanimously.

15-23-C; Brown, Jon D., D.P.M.

Dr. Jon D. Brown was present along with his legal counsel, Bruce D. Crawford. The complainant was present along with her spouse. Dr. Dedrie Polakof was present and provided a summary of her investigation. Prior to the completion of Dr. Polakof's summary, M. Elizabeth Miles requested to go into executive session for legal advice.

EXECUTIVE SESSION

A motion was made by M. Elizabeth Miles, seconded by Dr. Joseph Leonetti and passed unanimously to go into executive session at 12:16 p.m. to seek legal 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 12:24 p.m.

OPEN SESSION

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Informal Hearings

15-23-C; Brown, Jon D., D.P.M.

Dr. Jon D. Brown was again present along with his legal counsel, Bruce D. Crawford. The complainant was again present along with her spouse. Dr. Dedrie Polakof was also present as the Board's investigator.

M. Elizabeth Miles stated that she believes this matter has not yet been fully investigated and requested that no further summary be given by the Board's investigator. Ms. Miles requested that prescription records that Dr. Polakof reviewed should also include a full review of all those patient charts and not just the prescription records in which the investigator had concerns. Dr. Joseph Leonetti stated that due to the operation report and the lag time in dictation, he believed that it is appropriate to request or subpoena records from the Warner Surgical Park regarding Dr. Brown's dictation for a six-month period, including the surgery time to see if this matter is an anomaly or if there are other cases in which Dr. Brown provides dictation in an untimely fashion. The Board also agreed that an amended report be provided to include these two matters.

A motion was made by M. Elizabeth Miles, seconded John Rhodes and passed unanimously to direct the investigator to complete the aforementioned and agreed upon investigative matters and provide the Board with an amended report.

After accepting the Board's invitation, the complainant and her spouse provided and read a summary of their complaint and the care she received from Dr. Brown. The complainant answered the Board's questions regarding her prescription history with Dr. Brown. The complainant also shared her belief that Dr. Brown shared personal information about her with another doctor and she stated that she still has the voicemail left on her phone. She also stated that she still retains another voicemail that Dr. Brown left, on her voicemail, stating that Dr. Hicks took the note off his desk without Dr. Brown's permission.

Mr. Crawford stated that he has some concerns with what appears to be an improper investigation. Mr. Crawford stated that Dr. Brown and he had an interview scheduled with Dr. Polakof that she canceled at the last minute and then subsequently provided an investigation report, to the Board, with no information obtained from Dr. Brown. Mr. Crawford stated that he

believes it is not improper to share client information with another doctor if the first doctor thinks that subsequent doctor might be of some help to the patient.

Dr. Brown began to read a statement in an attempt to accurately reflect what he believes occurred. Before Dr. Brown completed reading his statement, Mr. Crawford stated that he and Dr. Brown have the prescriptions, the pharmacy records that show that the prescriptions were filled and signed statements from Dr. Brown's office manager and Dr. Hicks regarding their interactions with the complainant. In lieu of time, Dr. Brown and Mr. Crawford agreed to send Dr. Brown's written statement that he was prepared to read and the above-mentioned documents to the Board's office for the Board's review.

Review Compliance/Non-compliance with Order for Evaluation
14-18-B; Pipher, Mark, D.P.M.

After the Board agreed that Dr. Mark Pipher completed the measures in his Order for Evaluation, a motion was made by M. Elizabeth Miles, seconded by Dr. Barry Kaplan and passed unanimously to dismiss the case against Dr. Pipher.

Response to Offered Consent Agreement
12-22-C; O'Brien, Kevin, D.P.M.

Frankie Shinn-Eckberg and Board staff provided an update regarding Dr. Kevin O'Brien's request. The Board discussed the similarities of the offered Consent Agreement in this matter and the current Consent Agreement Dr. O'Brien is subject to in a previous matter.

After discussion, a motion was made by M. Elizabeth Miles, seconded by John Rhodes and passed unanimously to rescind the prior offer for case 12-22-C and offer a Consent Agreement for Decree of Censure, to exclude probation and continuing medical education.

Application for Examination – A.R.S. § 32-822
Vuong, Khoa Duy, D.P.M.

After a review of the Board's statutes, a motion was made by M. Elizabeth Miles, seconded by Dr. Barbara Campbell and passed unanimously to approve the applicant to take the examination.

CALL TO THE PUBLIC

Ryan P. Edmonson read a statement provided by the complainant of case number 14-04-C regarding her displeasure with the Board and the outcome of her case.

DISCUSSION AND POSSIBLE ACTION REGARDING CURRENT EVENTS

Frankie Shinn-Eckberg requested that the Board go into executive session to allow her an opportunity to provide them with some legal advice.

EXECUTIVE SESSION

A motion was made by M. Elizabeth Miles, seconded by Dr. Barbara Campbell and passed unanimously to go into executive session at 1:26 p.m. to seek legal pursuant to A.R.S. § 38-431.03(A)(3) regarding current events.

After consideration in executive session, the Board reconvened in open session at 1:30 p.m.

OPEN SESSION

DISCUSSION AND POSSIBLE ACTION REGARDING CURRENT EVENTS

The Board did not take any legal action.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Board Elections

Nomination and Election of Board President

After discussion, a motion was made by Dr. Barry Kaplan, seconded by Dr. Joseph Leonetti and passed unanimously to nominate Dr. Barbara Campbell as the Board's President for a one-year term.

Nomination and Election of Board Secretary

A motion was made by M. Elizabeth Miles, seconded by Dr. Barry Kaplan and passed unanimously to nominate John Rhodes as the Board's Secretary for a one-year term.

Dr. Joseph Leonetti left the meeting and did not participate in any of the following matters.

REVIEW, DISCUSSION AND POSSIBLE ACTION ON BOARD MEETING MINUTES

Discussion and approval of the Open Session Minutes from the December 9, 2015 board meeting

A motion was made by Dr. Barry Kaplan, seconded by John Rhodes and passed 3 – 0 – 1 to approve the Open Session Minutes from the December 9, 2015, Board meeting.

M. Elizabeth Miles abstained from the vote.

Discussion and approval of the Executive Session Minutes from the December 9, 2015 board meeting

A motion was made by Dr. Barry Kaplan, seconded by John Rhodes and passed 3 – 0 – 1 to approve the Executive Session Minutes from the December 9, 2015, Board meeting.

M. Elizabeth Miles abstained from the vote.

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

No new conflicts were declared.

PRESIDENT'S REPORT

There was no president's report provided.

EXECUTIVE DIRECTOR'S REPORT:

The Board reviewed the budget and agency operations with Ryan P. Edmonson. Specifically, Mr. Edmonson discussed the health of the budget, website changes and all Board forms and applications are all now fillable pdfs.

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

The Board discussed the following future agenda items:

- Receiving professional training on workplace violence; and
- Investigator training.

NEXT BOARD MEETING DATE

Wednesday, February 10, 2016 at 8:30 a.m.

ADJOURNMENT

A motion was made by Dr. Barbara Campbell, seconded by Dr. Barry Kaplan and passed unanimously to adjourn at 1:55 p.m.