

1 **BEFORE THE ARIZONA STATE BOARD OF**
2 **PODIATRY EXAMINERS**

3 In the Matter of:) **CASE NO. 13-02-C**
4)
4 **ROBERT EVANS, DPM**)
Holder of License No. **0605**) **BOARD ORDER**
5)
For the Practice of Podiatry)
6 In the State of Arizona)
7 _____)

8 Robert Evans, DPM (“Respondent”) was present before the Arizona State Board of
9 Podiatry Examiners (“Board”) for an Informal Hearing on Wednesday, April 13, 2016. Following
10 the testimony of the witness and the presentation of evidence, the Board adopted the following
11 Findings of Fact and Conclusions of Law and issued the following Order, consistent with the
12 statutory requirements and responsibilities of the Board pursuant to A.R.S. § 32-801, *et seq.*

13 **FINDINGS OF FACT**

14 1. The Arizona State Board of Podiatry Examiners is the duly constituted agency for
15 licensing and regulating the practice of podiatry in the State of Arizona and has jurisdiction over
16 Respondent and the subject matter pursuant to A.R.S. § 32-801, *et seq.*

17 2. Robert Evans, DPM, is the holder of License Number 0605, which enables him to
18 practice podiatry in the State of Arizona.

19 3. Respondent has been continuously licensed to practice podiatry in the State of
20 Arizona since June of 2004. Respondent’s license to practice podiatry was renewed on July 1,
21 2015 and is effective until June 30, 2016.

22 4. Between June 20, 2007 and April 13, 2011, Respondent administered an excessive
23 number and dosage of cortisone injections into the metatarsophalangeal joint of patient KH. A
24 total of twenty four (24) injections of Kenalog 20mg were delivered to an isolated small joint, with
25 two (2) injections just eight (8) days prior to surgery. An excessive number of cortisone injections
26 of this dose into an isolated small joint may result in a ruptured tendon or plantar plate and may
contribute to poor post-operative healing.

1 5. Respondent failed to recognize that KH's affected toe was still dorsally contracted
2 at the metatarsophalangeal joint and that the screw used by Respondent to fuse the proximal
3 interphalangeal joint did not contact the proximal phalanx in the post-operative radiographs. The
4 unstable second metatarsophalangeal joint and subsequent dislocation contributed to KH's
5 longstanding postoperative pain.

6 6. Respondent pre-operatively consented KH to a hemi implant arthroplasty but
7 additionally performed a synovectomy and billed for an osteotomy without the patient's informed
8 consent.

9 7. Respondent billed codes 99213, 99214 and 64450 on multiple visits, however the
10 medical documentation did not support the billing of these codes together and the appropriate code
11 should have been 20600, with 99213/99214 not having been used at the same time as an injection
12 code unless there was a documented justification for a totally separate examination. Respondent
13 billed code 28308 for an osteotomy, but no osteotomy was performed of the metatarsal on KH.
14 Respondent did remodel the head in the second metatarsal, but remodeling of the head is not an
15 osteotomy. Respondent billed code 28072 which is a synovectomy at the second tarsal/metatarsal
16 joint, but Respondent was not in the second tarsal/metatarsal, Respondent was in the
17 metatarsophalangeal joint. Respondent also ordered and billed for a biopsy with no indication or
18 reasoning for the biopsy. KH was treated by Respondent for a degenerative bone issue and
19 Respondent was not looking for a malignancy or an infectious process that would have required a
20 biopsy. Respondent also billed code 11040 for debridement, but there is no medical documentation
21 to support billing for this procedure.

CONCLUSIONS OF LAW

22
23 1. The conduct described in the Findings of Fact constitute grounds for disciplinary
24 action pursuant to A.R.S. §§ 32-852 and 32-852.01 and violates the provisions of A.R.S. § 32-
25 854.01(9) which states, "Failing to obtain written informed consent from a patient before the
26 licensee performs any surgical procedure on the patient."

1 the effective date of this Order. Payment may be in the form of a lump sum or
2 payments over time, but the total amount must be paid no later than one (1) year from
3 the effective date of this Order.

4 3. **CONTINUING EDUCATION.** Respondent shall take and complete at least twenty
5 (20) hours of pre-approved continuing medical education (“CME”) hours in the areas
6 of: (a) medical billing and coding and (b) medical recordkeeping and documentation.
7 Courses shall consist of a minimum of ten (10) CME hours in each subject area.
8 Respondent must submit a CME plan to the Board for pre-approval by the Board or
9 the Board’s Designee. Respondent shall complete the ordered CME hours within six
10 (6) months from the effective date of this Order. These CME hours shall be in addition
11 to the twenty five (25) hours required by the Board for license renewal.

12 4. **PROBATION.** Respondent shall be placed on PROBATION for the term of one (1)
13 year, during which time:

14 a. Respondent shall be required to submit monthly surgical logs to the Board no
15 later than close of business on the first Tuesday of each month.

16 b. Respondent shall be subject to monthly random chart audits by the Board of
17 no more than ten (10) medical records of patients receiving steroid injections.

18 c. Respondent shall be subject to monthly random chart audits by the Board of
19 no more than ten (10) medical records of patients having undergone
20 osteotomies, arthroplasties or implant procedures.

21 5. If after six (6) months, Respondent has complied with all terms and conditions of this
22 Order and Respondent wishes to terminate his PROBATION early, Respondent may
23 request early termination of PROBATION to the Board in writing. Early termination
24 of PROBATION will be approved or denied at the sole discretion of the Board.

25 6. Respondent bears all costs associated with complying with the terms of this Order.

26 7. This Order becomes effective as of the date stated below.

1 DATED THIS 29TH DAY OF APRIL 2016.
2 ARIZONA BOARD OF PODIATRY EXAMINERS

3
4 By: Barbara A. Campbell, D.P.M.
5 Dr. Barbara Campbell, Board President

6 **NOTICE**

7
8 In order to be eligible for judicial review pursuant to Title 12, Chapter 7, Article 6, you are
9 required to exhaust your administrative remedies by filing a motion for rehearing or review of the
10 Board's decision within thirty-five (35) days after these Findings of Fact, Conclusions of Law and
11 Order are mailed to you at your last known address, or thirty (30) days after they are personally
12 served upon you. Pursuant to A.R.S. § 41-1092.09(B), you are notified that failure to file a motion
13 for rehearing or review at the Board's office by that date has the effect of prohibiting you from
14 seeking judicial review of the Board's decision.

15 Original Board Order for Probation filed
16 This 29th day of April 2016 with the:

17 Arizona State Board of Podiatry Examiners
18 1400 West Washington Street, Suite 201
19 Phoenix, Arizona 85007

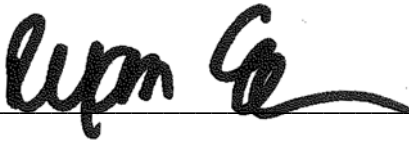
20 Copy of the foregoing sent by Electronic
21 and Regular US mail this 29th day
22 of April 2016 to:

23 Robert T. Evans, DPM
24 270 W. Chandler Heights, #5
25 Chandler, AZ 85248

26 Donn Alexander, Esq.
Jones, Skelton & Hochuli, P.L.C.
40 N. Central Ave.
Suite 2700
Phoenix, AZ 85004
Via: dalexander@jshfirm.com

1 Copy of the foregoing sent by Electronic mail
this 29th day of April 2016 to:

2 Frankie Shinn-Eckberg, Assistant Attorney General
3 Office of Arizona Attorney General
4 1275 W. Washington
Phoenix, AZ 85007
Via: Frankie.eckberg@azag.gov

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