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4 **BEFORE THE BOARD OF PODIATRY EXAMINERS**

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6 **STATE OF ARIZONA**

7 In the matter of Podiatry)
8 License No. 0278 Issued to:) No. 96005-C
9 Dale Feinberg, D.P.M.) **DECISION AND ORDER**
10 1832 S. 8th Ave.)
Yuma, AZ. 85364)

11
12 On February 21, 1996, the Board of Podiatry Examiners (hereafter Board) received a
13 written complaint from Arlene E. Oliver, a patient of licensee, Dale Feinberg (Dr.
14 Feinberg). Pursuant to A.R.S. § 32-852.01, the Board requested that both Dr. Feinberg
15 and patient, Arlene Oliver, attend an informal investigative interview. Dr. Feinberg
16 appeared for an informal interview before the Board at its regular meeting on May 8,
17 1996. Patient Arlene Oliver was present telephonically. She waived confidentiality of her
18 identity, complaint, medical condition, and discussion of her medical records. Following
19 the Board's consideration and review of the evidence presented at the hearing, the Board
20 enters the following Findings of Fact, Conclusions of Law and Order of Censure, pursuant
21 to A.R.S. § 32-852.01(C).
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23 **FINDINGS OF FACT**

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25 1. On January 5, 1996, patient Arlene Oliver (hereafter Oliver) visited Dr. Feinberg for
26 the purpose of treating the corns on her 4th and 5th toes on her left foot. Dr. Feinberg's
27 progress notes indicate x-rays were taken on this date. Dr. Feinberg diagnosed patient
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3 Oliver with exostosis 4th and 5th digits left foot, and explained alternative treatments
4 available. Patient Oliver elected to have surgery and was directed to a local lab to have
5 pre-operative blood screening.

6 2. On January 10, 1996, Dr. Feinberg performed surgery which consisted of
7 exostectomy 4th and 5th digits left foot. Dr. Feinberg's operative report indicates he
8 placed a tourniquet around patient Oliver's left ankle when in fact patient Oliver had a
9 platelet level of 475,000 which was too high.
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11 3. On January 16, 1996, patient Oliver complained of pain, swelling, and a clear
12 discharge. Dr. Feinberg's progress notes reflect that there was dehiscence at the 4th digit
13 left foot. Treatment consisted of a dry sterile dressing and a prescription for Duricef
14 500mg. Dr. Feinberg did not perform a culture and sensitivity test.
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16 4. On January 19, 1996, patient Oliver complained of leg pain and continued swelling
17 of the 4th digit left foot. Dr. Feinberg's treatment consisted of a dry sterile dressing and
18 directed patient Oliver to resume walking in birkenstocks.

19 5. On January 24, 1996, patient Oliver returned to Dr. Feinberg for suture removal
20 and began physical therapy consisting of whirlpool with betadine.
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22 6. On January 25th and 26th, 1996, patient Oliver returned for physical therapy
23 consisting of whirlpool wax treatment, and complained of continued pain and swelling to
24 Dr. Feinberg's staff. During the informal investigative interview with the Board, Dr.
25 Feinberg admitted that he was not on-site to supervise treatment being rendered to patient
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3 Oliver. Dr. Feinberg admitted that physical therapy was rendered by non-professional
4 staff members.

5 7. On January 29, 1996, patient Oliver returned for whirlpool wax treatment. Dr.
6 Feinberg's progress notes indicate he noticed dehiscence was reoccurring after physical
7 therapy, and the 4th digit, left foot was swollen. Dr. Feinberg's treatment consisted of 2
8 x-ray views to see if there were any signs of early osteomyelitis present, and ordered a
9 change in patient Oliver's antibiotics. Dr. Feinberg still did not perform a culture and
10 sensitivity test. During the informal investigative interview, the professional members of
11 the Board viewed Dr. Feinberg's original x-rays and found them to be inadequate.
12 Therefore, Dr. Feinberg could not have made a proper diagnosis, and further displayed an
13 indiscriminate use of antibiotics when he changed patient Oliver's prescription.
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16 8. Dr. Feinberg's progress notes indicate that patient Oliver returned for whirlpool
17 wax treatment on January 30th and 31st, and again on February 1st and 5th, 1996.

18 9. On February 8, 1996, Dr. Feinberg learned that patient Oliver was in the hospital
19 with Deep Venous Thrombosis in her leg, and is under the care of a vascular surgeon who
20 prescribed Heparin with coumadin. Dr. Feinberg failed to identify and treat patient
21 Oliver's post-operative infection versus Deep Venous Thrombosis.
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23 CONCLUSIONS OF LAW

24 10. The Board has jurisdiction over Dr. Feinberg and the subject matter of this complaint
25 pursuant to A.R.S. § 32-852.01, *et. seq.*
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3 11. The Board has the legal authority pursuant to A.R.S. § 32-852.01(C) to issue a
4 Decree of Censure, and to fix a period and terms of probation best adapted to the public
5 health, safety, and to rehabilitate the podiatrist concerned.

6 12. Dr. Feinberg was provided notice of the complaint, and participated freely in an
7 informal investigative interview pursuant to A.R.S. § 32-852.01(C).

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9 13. The conduct and circumstances in paragraph 7 constitute a violation of A.R.S. §
10 32-854.01(11). Dr. Feinberg failed or refused to maintain adequate records on patient
11 Oliver.

12 14. The conduct and circumstances in paragraphs 2,3,6,7 and 8 constitute a violation
13 of A.R.S. § 32-854.01(20). Dr. Feinberg engaged in conduct or a practice which was
14 harmful or dangerous to the health of patient Oliver.
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16 **ORDER**

17 15. Based upon the foregoing Findings of Fact and Conclusions of Law, the Board
18 hereby;

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20 a. Issues a Decree of Censure with regard to Dr. Feinberg's license No. 0278 for
21 the practice of podiatry in the State of Arizona.

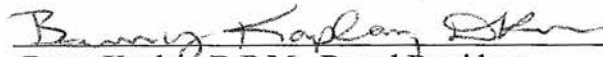
22 b. Fixes a period of probation with regard to Dr. Feinberg's license No. 0278 for
23 the practice of podiatry in the State of Arizona for a period of one year to become
24 effective at 12:00 a.m. on July 1, 1996 and end at 11:59 p.m. on
25 June 30, 1997. The terms of said probation shall include:
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3 (i) Monthly reporting to the Board by the 7th day of each month, to include copies
4 of COMPLETE MEDICAL RECORDS on ALL SURGICAL PATIENTS, including but
5 not limited to, pre-and post-operative x-rays, billings, lab reports, and consent forms. Dr.
6 Feinberg shall forward copies of the complete medical records for all surgical patients, to
7 the Board on or before the 7th day of each month beginning 30 days from the date this
8 order is signed by the Board President and continue each month thereafter until
9 completion of the probationary period.
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11 16. It is further ordered that any violations of this order constitutes unprofessional
12 conduct within the meaning of A.R.S. § 32-854.01(21) and is grounds for further
13 disciplinary action pursuant to A.R.S. § 32-852(6).
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15 DATED this 12th day of June, 1996.

16 ARIZONA BOARD OF PODIATRY EXAMINERS

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18 
19 Barry Kaplan, D.P.M., Board President

20 COPY of the foregoing mailed by
21 certified mail No. Z 383029382
22 this 12th day of JUNE, 1996 to:

23 DALE FEINBERG, D.P.M.
24 1832 S. 8th Ave.
25 Yuma, AZ. 85364

26 Office of the Attorney General
27 Lisa Burns, Assistant Attorney General
28 Phoenix, Arizona 85007