

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

2 In the Matter of

3 James P. Wilson, DPM

4 Holder of license number 0390  
5 For the practice of Podiatry  
6 In the State of Arizona

**Docket No. 11A- 11-07-B -POD**

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER**

7  
8 On July 22, 2011, this matter came before the Arizona Board of Podiatry Examiners  
9 (“Board”) for oral argument and consideration of the Administrative Law Judge (ALJ) Sondra  
10 Vanella’s proposed Findings of Fact, Conclusions of Law and Recommended Order. James P.  
11 Wilson, holder of license number 0390 for the practice of podiatry in the state of Arizona,  
12 (“Respondent”), was notified of the Board’s intent to consider this matter on the aforementioned  
13 date at the Board’s public meeting. Respondent did not appear. Assistant Attorney General Seth  
14 Hargraves represented the State. Assistant Attorney General Mary Jo Foster with the Solicitor  
15 General’s Section of the Attorney General’s Office was present and available to provide  
16 independent legal advice to the Board.

17 The Board, having considered the ALJ’s report and the entire record in this matter,  
18 hereby accepts the Findings of Fact paragraphs one (1) through twelve (12), Conclusions of Law  
19 paragraphs one (1) through nine (9), and Recommended Order as stated in the ALJ’s decision  
20 attached hereto without modification, and **RESPONDENT’S LICENSE IS HEREBY**  
21 **REVOKED.**

22  
23 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

24 Respondent is hereby notified that he has the right to petition for a rehearing or review  
25 by filing a petition with the Board’s Executive Director within thirty (30) days after service of this

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Order. A.R.S. § 41-1092.09. The filing of a motion for review or rehearing is a prerequisite for filing an appeal in Superior Court. Service of this order is effective five (5) days after date of mailing. If a motion for rehearing is not filed, this Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Dated this 25 day of JULY, 2011.

ARIZONA BOARD OF  
PODIATRY EXAMINERS

By:   
Barry Kaplan, DPM, President

1 **Original** of the foregoing filed  
this 25 day of July, 2011, with:

2 Arizona Board of Podiatry Examiners  
3 1400 W. Washington St. #230  
Phoenix, AZ 85007

4 **Copy** of the foregoing filed  
5 this 25 day of July, 2011, with:

6 Cliff J. Vanell, Director  
7 Office of Administrative Hearings  
1400 W. Washington, Ste. 101  
Phoenix, AZ 85007

8 **Executed copy** of the foregoing mailed  
9 by standard mail and certified mail no. 7008 0150 0001 3510 4104  
this 25 day of July, 2011, to:

10 James P. Wilson, DPM  
11 1947 McCulloch #106  
Lake Havasu City, AZ 86403

12 **Executed copy** of the foregoing mailed  
13 by standard mail and certified mail no. 7008 0150 0001 3510 4111  
this 25 day of July, 2011, to:

14 James P. Wilson, DPM  
15 2623 Blue Meadow Dr.  
Temple, TX 76502

16 **Copy** of the foregoing mailed  
17 this 25 day of July, 2011, to:

18 Keely Verstegen, Assistant Attorney General  
19 Seth Hargraves, Assistant Attorney General  
20 Office of the Attorney General  
CIV/LES  
1275 W. Washington  
Phoenix, Arizona 85007

21 Mary Jo Foster, Assistant Attorney General  
22 Office of the Attorney General  
EXO/SGO  
23 1275 W. Washington  
Phoenix, Arizona 85007

24   
25 By: \_\_\_\_\_  
Board staff

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2  
3 **In the Matter of:**

**No. 11A-11-07-B-POD**

4 **JAMES P. WILSON, DPM**

**ADMINISTRATIVE LAW JUDGE**

5 **Holder of License No. 0390**  
6 **For The Practice of Podiatry**  
7 **In the State of Arizona.**

**DECISION**

8 **Respondent.**

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11 **HEARING:** May 31, 2011

12 **APPEARANCES:** Assistant Attorney General Keely Versteegen represented the  
13 Arizona State Board of Podiatry Examiners; Executive Director, Sarah Penttinen was  
14 also present on behalf of the Arizona State Board of Podiatry Examiners; Respondent  
15 James P. Wilson, DPM failed to appear.

16 **ADMINISTRATIVE LAW JUDGE:** Sondra J. Vanella  
17

18 The question presented by this case is whether James P. Wilson, DPM has  
19 engaged in unprofessional conduct as defined in A.R.S. § 32-854.01, and/or other  
20 conduct that disqualifies him from practicing podiatry with regard to the safety and  
21 welfare of the public, and, if so, whether he is subject to disciplinary action pursuant to  
22 A.R.S. § 32-852(5) and (6). Based on the evidence of record, the Administrative Law  
23 Judge makes the following Findings of Fact, Conclusions of Law, and Recommended  
24 Order:

25 **FINDINGS OF FACT**

26 **Procedural Background**

27 1. The Arizona State Board of Podiatry Examiners (the "Board") is the duly  
28 constituted authority for licensing and regulating the practice of podiatry in the State of  
29 Arizona.  
30

Office of Administrative Hearings  
1400 West Washington, Suite 101  
Phoenix, Arizona 85007  
(602) 542-9826

1 2. James P. Wilson, DPM is the holder of License No. 0390 for the practice of  
2 podiatry in the State of Arizona.

3 3. On April 13, 2011, the Board issued a Finding of Public Emergency and Order of  
4 Summary Suspension under which the Board concluded that Dr. Wilson had engaged  
5 in unprofessional conduct as defined in A.R.S. §§ 32-854.01(20) (committing any  
6 conduct or practice which is or might be harmful or dangerous to the health of the  
7 patient), and 32-854.01(18) (violating any federal or state law applicable to the practice  
8 of podiatry), via 32-3208(A) (requiring a health professional who has been charged with  
9 a misdemeanor involving conduct that may affect patient safety or a felony after  
10 receiving or renewing a license or certificate to notify the health professional's  
11 regulatory board in writing within ten working days after the charge is filed). The Board  
12 concluded that emergency action was required under A.R.S. § 32-852.01(B), and  
13 ordered that Dr. Wilson's license be summarily suspended.

14 4. On April 19, 2011, the Board issued a Complaint and Notice of Hearing setting  
15 this matter for formal administrative hearing before the Office of Administrative  
16 Hearings, an independent state agency.

17 5. The hearing in this matter convened on May 31, 2011 at 1:00 p.m., pursuant to  
18 the Complaint and Notice of Hearing issued by the Board. On the date and at the time  
19 scheduled for the hearing, Assistant Attorney General Keely Verstegen represented the  
20 Board. The Executive Director of the Board, Sarah Penttinen, also appeared. Dr.  
21 Wilson did not appear, nor was Dr. Wilson represented by an attorney. The  
22 Administrative Law Judge delayed the commencement of the hearing for approximately  
23 fifteen minutes to allow for the appearance of Dr. Wilson, or the receipt of any  
24 information that would constitute good cause for his absence or delay. No such  
25 information was received. Therefore, the hearing proceeded in Dr. Wilson's absence.

#### 26 The Board's Investigation

27 6. On March 3, 2011, the Board's Executive Director, Sarah Penttinen, received a  
28 call from an anonymous caller who had been a patient of Dr. Wilson. The caller stated  
29 that he was having trouble obtaining his patient records from Dr. Wilson because Dr.  
30 Wilson had closed his office and had left town because he was "fleeing from the law."

1 The caller stated that Dr. Wilson had been arrested numerous times and that there was  
2 a story in the local newspaper.

3 7. Ms. Penttinen contacted the local newspaper and was advised that there had not  
4 been anything published about Dr. Wilson in the recent past.

5 8. Ms. Penttinen searched publicly available court records on the internet and  
6 discovered that Dr. Wilson had two charges pending in Lake Havasu City Municipal  
7 Court. Those charges were for i) assault/domestic violence, and ii) disorderly  
8 conduct/fighting. The charges stemmed from a January 21, 2011 incident during which  
9 Dr. Wilson was arrested. Dr. Wilson did not report the charges to the Board.

10 9. On March 24, 2011, Dr. Wilson agreed to plead guilty to Assault/Domestic  
11 Violence, a Class 1 Misdemeanor. See Exhibit 4. The charge of Disorderly  
12 Conduct/Domestic Violence was dismissed. *Id.*

13 10. On March 10, 2011, Dr. Wilson was indicted in Mohave County Superior Court  
14 on one count each of Public Sexual Indecency to a Minor, a Class 5 felony, and  
15 Molestation of a Child, a Class 2 felony. See Exhibit 5. Dr. Wilson did not report the  
16 charges in the indictment to the Board.

17 11. On March 10, 2011, Ms. Penttinen spoke with R.K., a patient and friend of Dr.  
18 Wilson. R.K. confirmed to Ms. Penttinen that Dr. Wilson closed his office and left town.  
19 R.K. informed Ms. Penttinen that the previous week, her daughter went to Dr. Wilson's  
20 office to pick up prescriptions for her and there was a note on the office door stating  
21 that Dr. Wilson was no longer seeing patients. See Exhibit 2. R.K. told Ms. Penttinen  
22 that Dr. Wilson had left town, and that she had confirmed this by speaking with Dr.  
23 Wilson's former office manager, who is also a friend of R.K. *Id.* R.K. told Ms. Penttinen  
24 that the office manager assisted Dr. Wilson with packing a moving truck at his  
25 residence within the previous two weeks. *Id.* R.K. stated that no one knows where Dr.  
26 Wilson went. *Id.* R.K. provided Ms. Penttinen with information regarding the individual  
27 who owns Dr. Wilson's office. *Id.*

28 12. On March 10, 2011, Ms. Penttinen contacted the property owner of Dr. Wilson's  
29 office building. He confirmed that Dr. Wilson abandoned the office and everything in it,  
30 including furniture, computers, office supplies, and patient charts. See Exhibit 2.

**CONCLUSIONS OF LAW**

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1. In this proceeding, the Board bears the burden to prove, by a preponderance of the evidence, that Dr. Wilson engaged in unprofessional conduct as defined in A.R.S. § 32-854.01, and/or other conduct that disqualifies him from practicing podiatry with regard to the safety and welfare of the public, and that he is subject to disciplinary action pursuant to A.R.S. § 32-852(5) and (6). See A.A.C. R2-19-119.

2. A preponderance of the evidence is “such proof as convinces the trier of fact that the contention is more probably true than not.” Morris K. Udall, ARIZONA LAW OF EVIDENCE § 5 (1960).

3. Pursuant to A.R.S. § 32-854.01(18), unprofessional conduct includes “[v]iolating any federal or state law applicable to the practice of podiatry.” A.R.S. § 32-3208(A) provides that “[a] health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony . . . must notify the health professional’s regulatory board in writing within ten working days after the charge is filed.” The Administrative Law Judge concludes, based on the credible, probative, and substantial evidence of record, that Dr. Wilson failed to notify the Board of the charge and conviction of Assault/Domestic Violence, and the charges of Disorderly Conduct/Domestic Violence, Public Sexual Indecency to a Minor, and Molestation of a Child.

4. Dr. Wilson further committed an act of unprofessional conduct under A.R.S. § 32-854.01(18). Pursuant to A.R.S. § 32-3208(D), “[a] health professional who does not comply with the notification requirements of this section commits an act of unprofessional conduct.” Dr. Wilson failed to notify the Board of the charges against him.

5. Pursuant to A.R.S. § 32-854.01(20), unprofessional conduct includes “[a]ny conduct or practice which is or might be harmful or dangerous to the health of the patient.” The Administrative Law Judge concludes, based on the credible, probative, and substantial evidence of record, that Dr. Wilson closed his office without giving any notice to his patients, thereby abandoning his patients and disallowing them access to their medical records for the purpose of continuing medical care. In so doing, Dr.

1 Wilson engaged in conduct which is or might be harmful or dangerous to the health of  
2 his patients. Therefore, Dr. Wilson engaged in unprofessional conduct.

3 6. The Administrative Law Judge concludes, based on the evidence presented, that  
4 the Board sustained its burden of proof as to each of Dr. Wilson's alleged violations of  
5 A.R.S. § 32-852.

6 7. A.R.S. § 32-852(A) provides:

7 The board, after notice and a hearing, may suspend, revoke or  
8 refuse to issue a license upon proof against the applicant or  
9 licensee of any of the following:

10 (5) That he is guilty of other conduct that disqualifies him to  
11 practice podiatry with regard to the safety and welfare of the public.

12 (6) That he is guilty of unprofessional conduct as defined in § 32-  
13 854.01.

14 8. Based on the foregoing statute, Dr. Wilson is subject to disciplinary action  
15 because he is found to have engaged in unprofessional conduct based on his  
16 violations of A.R.S. § 32-854.01(18) and (20). Dr. Wilson is also subject to disciplinary  
17 action because he is guilty of other conduct that disqualifies him to practice podiatry  
18 with regard to the safety and welfare of the public, *i.e.*, failure to notify the Board in  
19 writing within ten business days of his being charged with the misdemeanors of  
20 Assault/Domestic Violence and Disorderly Conduct/Fighting, and the felonies of Public  
21 Sexual Indecency to a Minor and Molestation of a Child.

22 9. The Board requested that Dr. Wilson's license be revoked. Based upon Dr.  
23 Wilson's demonstrated violations of A.R.S. § 32-854.01(18) and (20), the  
24 Administrative Law Judge concludes that revocation of Dr. Wilson's license is the  
25 proper disciplinary action.

26 **ORDER**

27 The Board's April 13, 2011 Order summarily suspending Dr. Wilson's license to  
28 practice podiatry in the State of Arizona is affirmed.  
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1 Commencing on the effective date of the Order entered in this matter, Dr.  
2 Wilson's license to practice podiatry in the State of Arizona (No. 0390) shall be  
3 revoked.

4 *In the event of certification of the Administrative Law Judge Decision by the*  
5 *Director of the Office of Administrative Hearings, the effective date of the Order will be*  
6 *five days from the date of that certification.*  
7

8  
9 Done this day, June 14, 2011.

10  
11 /s/ Sondra J. Vanella  
12 Administrative Law Judge

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14 Transmitted electronically to:

15 Sarah Penttinen, Executive Director  
16 Arizona State Board of Podiatry Examiners  
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