



Janice K. Brewer,
Governor

State Of Arizona Board of Podiatry Examiners

"Protecting the Public's Health"

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Barry Kaplan, DPM; Joseph Leonetti, DPM; Dedrie Polakof, DPM; Paula Hollins, Public Member;
Jeanne Reagan, Public Member, Sarah Penttinen, Executive Director

BOARD MEETING MINUTES

July 8, 2009, 8:30 a.m.
1400 West Washington St., B1
Phoenix, AZ 85007

Board Members: Joseph Leonetti, D.P.M., President
Dedrie Polakof, D.P.M., Member
Barry Kaplan, D.P.M., Member
Jeanne Reagan, Secretary-Treasurer
Public Representative (Vacant)

Staff: Sarah Penttinen, Executive Director

Assistant Attorney General: Keely Verstegen

I. Call to Order

Dr. Leonetti called the meeting to order at 8:36 a.m.

II. Roll Call

Dr. Leonetti noted for the record that he, Dr. Kaplan and Ms. Reagan were present. Dr. Polakof was not present.

III. Approval of Minutes

a. June 10, 2009 Regular Session Minutes.

MOTION: Dr. Kaplan moved to accept the minutes as written. Ms. Reagan seconded the motion. There was no discussion.

VOTE: The motion passed unanimously by voice vote.

b. June 10, 2009 Executive Session Minutes

MOTION: Dr. Kaplan moved to accept the minutes as written. Ms. Reagan seconded the motion. There was no discussion.

VOTE: The motion passed unanimously by voice vote.

IV. Informal Interview: Time-specific agenda item is scheduled for 8:30 a.m.

a. 08-47-B – Antonius Su: The Board has scheduled time to conduct an Informal Interview, although the licensee has declined informal proceedings and has requested a formal hearing. The Board will consider his request and will also review, discuss and possible take action regarding a voluntary disciplinary agreement offered to the licensee.

Dr. Su was not present. Dr. Leonetti stated for the record that Dr. Su declined the Informal Interview. Ms. Penttinen advised that a letter had been received on July 7, 2009 from Dr. Su's attorney Bruce Crawford stating that Dr. Su would be willing to accept the proposed consent agreement with two requested changes. The first change would modify the records to be submitted to exclude hospital-based procedures and include only procedures done in office. The second change would modify the term of probation from one year to six months.

Regarding the first change, there was discussion among the Board members that the concern in this matter is Dr. Su's billing practices. If Dr. Su or his billing company do not perform billing for the hospital-based procedures then excluding those would be acceptable. However, if Dr. Su is responsible for those billings then they must be submitted. Regarding the second change, Dr. Leonetti stated that while Dr. Su may have already made changes to his billing practices he has not submitted any proof of that to the Board. After brief discussion among the Board members they decided to send a new consent agreement to Dr. Su allowing the first change but keeping the one-year requirement. If he does not accept that agreement the Board wants to invite him again to an Informal Interview and will then consider referring the matter to a formal hearing.

V. Review of Administrative Law Judge Recommendation: The Board will review, discuss, and take action to accept, reject or modify the recommendation of the Administrative Law Judge in the following matter:

- a. 08-41-B & 08-48-B (Consolidated) – George Thompson: Alleged failure to provide records in a timely manner and alleged violation of a Board Order.

This matter was called at 9:30 a.m. Dr. Thompson did not appear. Mary Jo Foster of the Solicitor General division of the Attorney General's Office was present to provide independent legal counsel to the Board. Ms. Versteegen briefly addressed the Board regarding the ALJ's recommendation and asked that the Board adopt it in its entirety to revoke Dr. Thompson's license. Dr. Kaplan reviewed the subject of this combined matter which includes Dr. Thompson's failure to comply with a Board-issued subpoena and his failure to comply with a Board Order. Dr. Kaplan also reviewed Dr. Thompson's previous disciplinary history, which includes multiple Board actions dating back to 2002, and stated that he does not feel Dr. Thompson can be regulated.

MOTION: Dr. Kaplan moved to adopt the ALJ's recommended Findings of Fact as written. Ms. Reagan seconded the motion. There was no discussion.

VOTE: The motion passed unanimously by voice vote.

MOTION: Ms. Reagan moved to adopt the ALJ's recommended Conclusions of Law as written. Dr. Kaplan seconded the motion. There was no discussion.

VOTE: The motion passed unanimously by voice vote.

MOTION: Ms. Reagan moved to adopt the ALJ's recommended Order for the revocation of Dr. Thompson's license. Dr. Kaplan seconded the motion. There was no discussion.

VOTE: The motion passed unanimously by roll-call vote with Dr. Polakof absent.

VI. Review, Discussion and Possible Action –Review of Complaints

There were no new complaint investigations to review.

VII. Status Updates: No Board Action – Information Only

- a. 07-28-C – Kent Peterson: Monthly status update.

Ms. Penttinen advised that an update had been received on June 10, 2009 stating that the legal matter is still pending. There was brief discussion among the Board members to continue to table Board action in this matter until the legal matter is concluded.

- b. Status of appeal filed by Dr. Gaveck in case number 06-04-C.

Ms. Versteegen stated that the appeal is still under advisement in the Court of Appeals and this may take several months.

VIII. Probation / Disciplinary Action Status Reports: No Action – Information Only

a. 06-04-C – Alan Gaveck: Monthly report update.

Dr. Leonetti reviewed a letter dated July 2, 2009 from Dr. Gaveck's attorney stating that the doctor performed no surgeries during the month of June. Dr. Leonetti clarified with Ms. Penttinen that although Dr. Gaveck's probation period is technically completed, he has not specifically requested it to be terminated which his consent agreement requires him to do. Dr. Leonetti also confirmed that Dr. Gaveck's attorney was present at the June 2009 Board meeting when this item was discussed and is aware of the need to specifically request termination of the probation.

b. 08-03-C – Elaine Shapiro: Monthly report update.

Ms. Penttinen advised that the next quarterly report from Dr. Sucher is due in August 2009. She asked if the Board would like to invite Dr. Shapiro to attend the August Board meeting for an interview with the Board as allowed in her consent agreement. The Board stated they would like to do that. Ms. Penttinen will send notification to Dr. Shapiro.

c. 08-18-C – David Laurino: Monthly update.

Dr. Leonetti reviewed a letter received stating Dr. Laurino did not perform any surgeries during the month on June 2009. Ms Penttinen stated she had records for April and May for review. Dr. Leonetti stated he will review these records and report back to the Board at the next meeting.

d. 09-17-B – J. David Brown: Monthly update.

Ms. Penttinen advised that she has received verbal notification from Dr. Sucher that Dr. Brown has entered a treatment facility and she also received from attorney Bruce Crawford a copy of a letter he received from the treatment facility stating that Dr. Brown was there. However, she has not been able to independently verify this because Dr. Brown has not provided the facility with authorization to release information to this agency. Because of that, the Board will not receive any progress reports or notification if Dr. Brown fails to complete the treatment program. The Board members discussed with Ms. Penttinen the letter she sent to Mr. Crawford advising him that there were three specific items which Dr. Brown was required to begin within seven days of the effective date of the agreement. Ms Penttinen affirmed that those items could be considered to be done if it can be verified that Dr. Brown is in treatment, but without that verification he is considered to be non-compliant with the consent agreement. Following brief discussion among the Board members, direction was given to Ms. Penttinen to send a letter to Mr. Crawford advising him that within ten calendar days the Board must receive verification directly from the treatment facility that Dr. Brown is there and if that is not done then a separate investigation case will be opened for his failure to comply with the agreement. If that occurs, the Board will refer the case to a formal hearing for revocation of Dr. Brown's license. The Board also wants the letter to Mr. Crawford to include a request for an update of the legal charges pending against Dr. Brown from his DUI.

IX. Review Discussion and Possible Action on License Renewal Applications

Dr. Polakof arrived and was present for the review of license and dispensing renewal applications.

MOTION: Dr. Kaplan Moved, and Ms. Reagan seconded the motion, to approve the following applications as complete:

Suzanne Abraham
Steven Abrams
William Accomando
Brian Allen
Shahram Askari
Daniel Bangart
Darron Barrus

David Bates
Justine Beabes
Darin Bocian
Steven Born
Joseph Borriggine
Mark Brekke
Brian Broadhead

J. David Brown
Alex Bui
Ana Burns
Barbara Campbell
Gerald Campbell
Timothy Casey
Jessica Cerda

Sandra Chaison-Kaye
Richard Cohen
Stanton Cohen
Jerome Cohn
Charles Connell
Karl Collins
David Corcoran

Scott Crampton
Donald Curtis
Evan Cwass
Amram Dahukey
Joseph DeRose
Marvin Dobkin
Samuel Dolnick
Richard Donela
John Fiorino
Mark Forman
Robert Frykberg
Clark Fullmer
Todd Galle
Louis Geller
Stephen Geller
David Gerstman
Jay Glasser
April Glesinger
Julia Granone
Douglas Griffin
Marisa Haddad
Todd Haddon
Thomas Hale
Steven Hollander
Erika Huston
Joshua Johnson
Matthew Jones

Ira Kaufman
Robert Kenrich
Ronald Killian
Edalyn Ko
Barbara Kluger
Duane Kratzer
Bruce Krell
Adam Kruczay
Todd Lamster
Howard Lepolstat
Therese Losi
Frank Maben
Verlon Marshall
Mary Maselli
Cathleen McCarthy
Robert Mendicino
Hartley Miltchin
Eduardo Montes
Kara Montes
Wayne Moyer
Craig Murad
Peter Myskiw
Ronald Nagy
Aprajita Nakra
Serjik Nazarian
Brian Neerings
Bradley Newswander

Dennis Noss
Roland Palmquist
Jeffrey Pawlowski
Mary Peters
Kent Peterson
Raymond Peterson
Mark Pipher
Scott Price
Ralph Rabin
Terry Ranta
Travis Reber
Kathleen Richards
Lee Richer
Richard Robinson
Brett Roeder
Martin Rosenthal
Roberta Rowland
Maria Sangalang
Daniel Schulman
Timothy Sekosky
Paul Selander
Myron Seulean
Elaine Shapiro
Paul Shapiro
Allen Sherman
Timothy Short
Peter Sidoriak

Donald Siegel
Glenn Silverstein
Antonius Su
Arthur Tallis
Selena Tang
John Tassone
Wesley Taxier
George Thaler
Chad Thompson
George Thompson
Tanya Thoms
Edward Tierney
Eric Trattner
Melanie Violand
Jodi Walters
Michael Warheit
Mark Weissfeld
Bruce Werber
Edward Wiebe
Margaret Withrow
Paul Woodward
Serrina Yozsa
Kerry Zang
Robert Zobel
Larry Zonis

VOTE: The motion passed unanimously by voice vote.

MOTION: Dr. Kaplan moved, and Ms. Reagan seconded the motion, to approve the following applications pending correction of deficiencies already noted by staff:

Maria Buitrago
Steven Burns
Allison Cheney
Luke Cicchinelli
Janice Clark
Jamie Coffey
Heather Couch
Rajesh Daulat
Kris DiNucci
John Erotas
Scott Evans

Patrick Farrell
Robert Flake
Michael Fox
Lewis Freed
Robert Fridrich
Todd Gunzy
Jared Hall
Glenn Nelson
Kimberly Leach
Ernest Louk
Scott Maling

Floyd Miller
Anna Natcher
John Harlan
Jason Harrill
Spencer Niemann
Kevin O'Brien
Jefferey Page
John Powers
Trena Reed
Gordon Rheaume
Bryan Roth

Karyn Sallus
Daniel Saunders
Valerie Schade
Karen Smith
Michael Stegman
Scott Wyant
Frank Zappa
Wesley Yamada
Susan Young

VOTE: The motion passed unanimously by voice vote.

MOTION: Dr. Kaplan moved, and Ms. Reagan seconded the motion, to approve the following applications pending correction of the noted deficiencies:

Timothy Casey – Proof of citizenship is needed.
Louis Geller – Must provide further information regarding a malpractice lawsuit.
Brett Roeder – Must complete CME.
Matthew Jones – Must provide copies of CME certificates.
George Thompson – Must complete 15 hours of non-online, non-journal CME.

VOTE: The motion passed unanimously by voice vote.

Dr. Leonetti recused himself from the review of his license renewal application and that of his brother Michael Leonetti.

MOTION: Dr. Polakof moved to approve the renewal applications of Joseph Leonetti and Michael Leonetti. Ms. Reagan seconded the motion.

VOTE: The motion passed unanimously by voice vote.

X. Executive Director's Report

a. Open complaint status report.

The Board reviewed the open complaint status report which shows 36 open complaints. Dr. Leonetti questioned some cases which indicate that the complainant is the Board but the Board members had not voted to open a case. Ms. Penttinen explained that the Board is listed as the complainant for matters which did not come from a malpractice action or from a consumer or other outside complainant. She also stated that several of the open cases should be closing soon due to formal hearing matters and some cases which she believes are very near completion and will be on an upcoming Board meeting agenda for review. Dr. Leonetti asked Ms. Penttinen to email to the Board members a list with the specific status of each case, such as awaiting response from the licensee, with investigator, scheduled for Board meeting, etc.

b. Update on Board's continuation bill and appropriations bill.

Ms. Penttinen advised that the continuation bill passed in the Senate with only two dissenting votes and was forwarded to the Governor. It has been signed and will go into effect 90 days after the official end of the legislative session but will be retroactive to July 1, 2009. She also advised that the Board's appropriation bill was passed and the agency budget for FY 2010 is \$143,600.

c. Status of contact with FDA regarding use of lasers in podiatric care.

Ms. Penttinen advised that she is still having difficulty reaching anyone at FDA by phone. She provided the Board with a copy of a letter she sent to the CDRH division of FDA on June 30, 2009 asking them for a written verification of which, if any, lasers can be used to treat fungal toenail infections.

d. Correspondence from the Council on Podiatric Medical Education – revision to standards and requirements for accrediting colleges of podiatric medicine.

The Board members reviewed the letter which only clarifies that any new colleges of podiatric medicine will be required to undergo an accreditation process with CPMA which may be lengthy. There are still only eight accredited colleges.

e. Changes to agency website (mandated by GITA).

Ms. Penttinen explained that several years ago all State agencies were required to modify their websites to make them more uniform across the State. Since then the Podiatry Board has not modified its website. However, GITA is now requiring that all agencies change again to the new format they want which has a standard top banner and the "AZ.gov" logo. The new format may allow website changes to be made more easily at staff level, (rather than using contracted IT staff), once a minimum level of training is completed. The original deadline for this was April 1, 2009 but was extended to September 1, 2009. Ms. Penttinen advised that she attended a meeting with GITA staff and spoke with them about the costs of migrating the Board's website to the new format and any repercussions if the Board chose not to change. GITA staff have estimated that it will take several hours to complete the migration which will be costly. However, since that meeting Ms. Penttinen has been advised that GITA will conduct the migration at no cost. Ms. Reagan asked about the appearance of the new website and Ms. Penttinen explained that it will be essentially the same as it is currently only with different colors and fonts.

XI. Call To The Public

There were no requests to speak during the Call to the Public.

XII. Next Board Meeting Date(s):

- a. August 12, 2009, 8:30 a.m.

XIII. Adjournment

There being no other business before the Board the meeting was adjourned at 11:01 a.m.