



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;  
Jeanne Reagan, Public Member; Jose Villanueva, Public Member; Sarah Penttinen, Executive Director

### **BOARD MEETING MINUTES**

January 13, 2010; 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  
Jose Villanueva, Public Member

Staff: Sarah Penttinen, Executive Director

Assistant Attorney General: Keely Verstegen

#### **I. Call to Order**

Dr. Polakof called the meeting to order at 8:37 a.m.

#### **II. Roll Call**

Dr. Polakof noted for the record that she, Dr. Kaplan, Ms. Reagan and Mr. Villanueva were present. Dr. Leonetti was absent. Ms. Penttinen advised that she received telephone notification from Dr. Leonetti this morning that he was ill and unable to attend. Dr. Polakof served as the acting president for the meeting.

#### **III. Approval of Minutes**

a. December 1, 2009 Regular Session Minutes.

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

VOTE: The motion passed unanimously by voice vote.

b. December 1, 2009 Executive Session Minutes.

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

VOTE: The motion passed unanimously by voice vote.

#### **IV. Review, Discussion and Possible Action –Review of Complaints**

No new complaints were reviewed.

#### **V. Status Updates: No Board Action – Information Only**

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

Ms. Penttinen advised that the next quarterly report is due in February 2010.

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

Ms. Verstegen advised that this matter is still being reviewed in the Supreme Court and there have been no new developments.

#### **VI. Review, Discussion and Possible Action – Probation / Disciplinary Action Status Reports**

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

Ms. Penttinen advised that the Board has received two monthly updates since the December 2009 Board meeting stating that Dr. Gaveck performed no surgeries during the months of November and December

2009. Attorney Bruce Crawford was present and advised the Board that Dr. Gaveck is now living in California but is not working as a podiatrist.

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

Ms. Penttinen advised that she has not received any reports of non-compliance.

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

d. 08-47-B – Antonius Su: Monthly update.

Ms. Penttinen advised that when she spoke with Dr. Leonetti this morning he stated that the records he has reviewed for both Dr. Laurino and Dr. Su are in order and there are no problems to report.

e. 09-17-B – J. David Brown: Monthly update and request to return to full-time practice.

Dr. Brown was present with attorney Bruce Crawford. Dr. Polakof asked Dr. Brown how he is feeling overall. Dr. Brown stated he is doing very well although it is very time-consuming keeping up with all the requirements he has right now. Dr. Kaplan asked about the status of his hospital privileges. Dr. Brown stated he is doing paperwork and is almost done with the process to be approved for the two Catholic Healthcare West hospitals in the Phoenix metro area. With regard to insurance carriers, Dr. Brown stated he has been accepted back into Medicare participation but is having trouble being reinstated with other carriers.

The Board questioned Dr. Brown about his office policy regarding controlled substances. Dr. Brown stated that when he previously addressed the Board (in October 2009) he misspoke when talking about his office security for controlled substances. He states now that he does not keep controlled substances in his office but all his prescription pads are kept secured as outline in the policy he submitted to the Board.

Ms. Penttinen related to the Board Dr. Leonetti's comments on this matter as he stated them to her by phone this morning. Dr. Leonetti feels that Dr. Brown has not been fully compliant with the requirements set forth by the Board, specifically including timely submission of patient rosters, and he feels Dr. Brown should continue with part-time status and revisit his request in one month. Drs. Polakof and Kaplan reviewed the progress report submitted by Dr. Michel Sucher which states Dr. Brown is doing well in his recovery program and recommends that Dr. Brown be allowed to return to full-time status.

MOTION: Dr. Polakof moved to allow Dr. Brown to return to full-time status. Dr. Kaplan seconded the motion. Upon discussion the Board members advised Dr. Brown that he must cooperate and timely comply with requests made by the Board in this matter.

VOTE: The motion passed unanimously by voice vote.

## **VII. Review, Discussion and Possible Action on Administrative Matters**

a. Election of Board President and Secretary.

MOTION: Dr. Polakof moved to elect Mr. Villanueva as Secretary of the Board. Dr. Kaplan seconded the motion. There was no discussion. Mr. Villanueva recused himself from the vote.

VOTE: The motion passed unanimously by voice vote.

MOTION: Dr. Kaplan moved to elect Dr. Polakof as Board President. Ms. Reagan seconded the motion. There was no discussion. Dr. Polakof recused herself from the vote.

VOTE: The motion passed unanimously by voice vote.

b. Request from Dr. Daniel Geller regarding issuance of Arizona license.

The Board reviewed the information in this matter including the timeline of events noted in Dr. Geller's application file. Dr. Geller initially applied for a podiatry license in 2007. After all deficiencies were rectified, Dr. Geller was approved to sit for the June 10, 2008 oral exam but he did not show for that exam. On the date of the next oral exam which was December 2, 2008, Dr. Geller was ill but Dr. Polakof was able to administer the exam via phone and Dr. Geller achieved a passing score. Ms. Penttinen noted that proper written notification regarding the license issuance fee deadline was sent to Dr. Geller's address of record. When the fee was not received within the required time frame Ms. Penttinen sent written notice to Dr. Geller that if he still wishes to obtain an Arizona license he would be required to re-

apply. Dr. Geller has acknowledged receiving the Board's notifications but feels the Board should have reminded him before the license issuance fee time period expired. Dr. Geller is currently requesting that the Board allow him to pay the license issuance fee now and obtain his license without the need to re-apply. Drs. Kaplan and Polakof stated that it is the applicant's responsibility to submit the required information and/or fees in the appropriate time frame(s).

**MOTION:** Dr. Kaplan moved to deny Dr. Geller's request and require that he re-apply if he wishes to obtain an Arizona license. Ms. Reagan Seconded the motion. There was no discussion on the motion.

**VOTE:** The vote passed unanimously by voice vote.

Following the vote, Dr. Kaplan stated that in the future the Board should not allow any oral exams to be conducted by phone as this causes an inconsistency in the application process.

c. Review, and approval or modification of records retention procedure.

Ms. Penttinen reviewed a draft of the Board's procedure regarding records retention which was based on the Board's previous review and discussion in June 2009 and includes retaining the audio recordings of Board meetings for one month after the minutes for respective meetings are approved. There was discussion raised during the December 1, 2009 Board meeting regarding whether or not the recordings should be retained and for what time period. At this time, following brief discussion among the Board members, there was a determination to make no changes to the procedure as originally written.

d. Review of communications procedures during investigations.

Ms. Verstegen reviewed with the Board that when a licensee under investigation is represented by an attorney, any contact with the licensee or their office staff should be conducted through the attorney. Drs. Kaplan and Polakof stated they were not previously aware of this requirement but will do so from now on. Mr. Crawford addressed the Board and stated that he represents a majority of licensees who appear before the Board and he would be happy to assist the Board's investigators with contacting his clients and/or their office staff.

## **VIII. Executive Director's Report**

a. Open complaint status report.

Ms. Penttinen reviewed the open complaint status report which shows there are currently 42 open complaints. There was discussion among the board members, Ms. Verstegen and Ms. Penttinen regarding malpractice investigations. The Board decided that investigations on malpractice cases should not be undertaken by the Board until a settlement or judgment is entered. The Board directed Ms. Penttinen to contact the top five podiatry malpractice insurance carriers and request that they each provide the Board with notifications of initial filings and updates on malpractice cases of those they insure. The Board also directed Ms. Penttinen to place a recurrent item on all future Board meeting agendas so the Board may track the status of ongoing malpractice matters.

b. Resolution of complaint filed with Ombudsman's Office.

Ms. Penttinen advised that the Ombudsman's Office completed their investigation of the complaint filed against the Board by D.W. D.W. alleged that the Board improperly dismissed the complaint he filed against Dr. Travis Reber. Following their investigation of the Board's actions, the Ombudsman's Office concluded that the Board conducted a thorough a fair investigation of D.W.'s complaint and they have closed their file in this matter.

## **IX. Call To The Public**

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

## **X. Next Board Meeting Date:**

a. February 10, 2010, 8:30 a.m.

## **XI. Adjournment**

There being no other business before the Board the meeting was adjourned at 9:40 a.m.