



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

BOARD MEETING MINUTES

September 8, 2010; 8:30 a.m.
1400 West Washington St., B1
Phoenix, AZ 85007

Board Members: Joseph Leonetti, D.P.M, President
Barry Kaplan, D.P.M., Member
Barbara Campbell, D.P.M., Member
Jose Villanueva, Secretary-Treasurer
Jeanne Reagan, Public Member

Staff: Sarah Penttinen, Executive Director

Assistant Attorney General: Keely Verstegen

I. Call to Order

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

II. Roll Call

Dr. Leonetti noted for the record that all Board members were present, as were Ms. Penttinen and Ms. Verstegen.

III. Approval of Minutes

a. August 11, 2010 Regular Session Minutes.

MOTION: Dr. Kaplan moved to approve the minutes with one correction regarding the July 14, 2010 minutes to reflect that Dr. Joseph Leonetti recused himself from voting on the renewal applications for himself and William Leonetti. Dr. Campbell seconded the motion.

VOTE: The motion passed unanimously by voice vote.

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

a. 09-13-M – Patrick Farrell: Practice below the standard of care.

Dr. Farrell was present with attorney Christina Chait. Ms. Penttinen informed the Board members that just prior to the start of the meeting Dr. Farrell accepted the Consent Agreement previously offered to him. Dr. Leonetti signed the Agreement and it becomes effective today. Dr. Farrell and Ms. Chait addressed the Board and requested that the Order portion of the Agreement be amended to require only the submission of records for nerve decompression procedures of the ankle. The Board discussed the request and agreed that the second paragraph of the Order portion could be amended (via a separate amendment document) to state that Dr. Farrell shall submit records for procedures performed from the tarsal tunnel proximal. Ms. Penttinen will draft the amendment and forward to Ms. Chait.

Ms. Chait also requested that the Board's meeting minutes from June 9, 2010 be redacted to remove the amount of the settlement in the civil malpractice matter. The settlement was a confidential agreement and the amount was not to be disclosed. (The Board was previously unaware of the confidentiality clause.)

MOTION: Dr. Leonetti moved to redact the settlement amount from the June 9, 2010 meeting minutes. Ms. Reagan seconded the motion. There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

V. Status Updates: No Board Action – Information Only

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

Ms. Penttinen advised that the last quarterly update was received last month so the next one will be due in November 2010.

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

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

The Board reviewed the request submitted by Dr. Shapiro via her attorney Ed Gaines regarding CME requirements and the response sent by Ms. Penttinen. The Board determined that the course previously completed by Dr. Shapiro will count for seven (7) of the ten (10) required hours.

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

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

Agenda items VI(b) and (c) were reviewed together. Dr. Leonetti stated that all records he has reviewed from both doctors are in order with no problems. There was brief discussion confirming the extension given to the doctors to complete their CME requirements which will end on October 1, 2010.

d. 09-17-B – J. David Brown: Monthly update and probation interview with the Board.

Dr. Brown was present with attorney Bruce Crawford. Dr. Brown addressed the Board and stated he is still active in Dr. Sucher's monitoring program. He attends three (3) 12-step meetings per week including one Caduceus meeting (for healthcare professionals). He is given random drug tests and meets regularly with Dr. Sucher and his staff. Dr. Brown stated that this incident and being in Dr. Sucher's program has been tough but also the best thing that has ever happened to him.

Dr. Leonetti asked Dr. Brown about the status of his criminal matters related to this case. Dr. Brown explained that pursuant to his plea agreement he is attending a court-ordered alcohol education class and expects to complete it soon. He also has a breathalyzer on his car which must remain for a total of one year. Dr. Leonetti also asked Dr. Brown about the status of his insurance contracts and hospital/facility privileges. Dr. Brown stated it has been difficult but he is working on the insurance contracts. With regard to facilities, he is not able to gain staff membership at any hospitals right now but he is still OK for some outpatient surgical centers which suit his practice needs. The Board members commented in general that Dr. Brown appears to be doing well.

VII. Review, Discussion and Possible Action on Administrative Matters

a. Senate Bill 1255 – New legislation regarding advertising by health care practitioners.

Ms. Penttinen reviewed the bill which went into effect on July 29, 2010. The bill requires that any advertisement which includes a healthcare practitioner's name also include their license credentials. Ms. Penttinen inquired whether the Board would like to send out a letter to all licensees to advise them of this, or take another course of action such as posting it on the Board's website. There was brief discussion among the Board members with direction to Ms. Penttinen to post the bill information on the Board's website and send a letter regarding this issue to the Arizona Podiatric Medical Association.

b. House Bill 2545 – New requirements for posting of disciplinary and non-disciplinary actions on the agency website.

The bill states that a healthcare regulatory board shall not post "non-disciplinary" actions on their website but may post a Letter of Concern or Advisory Letter. All healthcare Boards must comply with the bill by January 1, 2012. Ms. Penttinen summarized her meeting with Rep. Matt Heinz who sponsored the bill and her attempts to clarify the application of the bill. As the bill is written, the only Board action that could not be posted to the website would be a non-disciplinary order for continuing medical education. However, Ms. Penttinen's greater concern is the bill's requirement that language be added to the Board's website to advise the public that additional license history information can be obtained by contacting the Board's office. Ms. Penttinen feels that adding this language to the website essentially defeats the purpose of having the license information on the website and will cause a dramatic increase in her telephone inquiries from the public.

When Ms. Penttinen met with Rep. Heinz she explained her concerns about the bill and the “stakeholder” process which was completed during the writing of the bill and which this Board was not made aware of. Rep. Heinz and his staff had notified the state podiatry association and were under the impression that the state association would notify the Board about this process. Ms. Penttinen voiced her confusion regarding the intent of the bill because all “public information” is public information regardless of the manner in which the information is distributed to the public. Ms. Penttinen and Rep. Heinz discussed the possibility of conducting a “trial run” for a period of three to four weeks during which time she would post the additional language for the website required by the bill and then track the number of telephone inquiries she receives to measure any increases in call volume. That information would then be reported back to Rep. Heinz who stated that a measurable increase in phone inquiries may justify modification of the bill prior to January 1, 2012.

There was discussion among the Board members and Ms. Penttinen regarding the number of phone inquiries presently received. Ms. Penttinen stated it averages 10-15 calls per week, sometimes slightly higher. The Board members are in agreement with conducting a trial period and Ms. Penttinen’s continued work with Rep. Heinz regarding the implementation of this bill. Ms. Penttinen stated she will start the trial period on October 1, 2010 and continue for no more than one month, shorter if the call volume increases to the point of being unmanageable. Ms. Penttinen will keep the Board members informed of the status of this issue as it progresses.

c. Request from Dr. James Dancho for review and approval of CME provided by the Southern AZ V.A. Medical Center under the title “Journal Club.”

The Board members reviewed the CME information submitted by Dr. Dancho on behalf of the Southern AZ V.A. Medical Center. Dr. Dancho is requesting pre-approval of the residency program’s CME for the 2011 license renewal requirements. There was brief discussion regarding the title of “Journal Club” as not indicative of the actual format of the CME. Journal review CME is limited to ten hours per year. However, this Journal Club format includes conferences, lectures, case reviews and extensive interactive presentations and discussions between residents and attending physicians. The Board members reviewed the topics listed in the request and agreed that the courses would be acceptable for license renewal CME requirements.

MOTION: Dr. Leonetti moved to approve the CME requested by Dr. Dancho. Ms. Reagan seconded the motion. There was no further discussion.

VOTE: The motion passed unanimously by voice vote.

d. New license application: Dr. Brian Dechowitz.

MOTION: Dr. Leonetti moved to approve the license application for Dr. Dechowitz and allow him to sit for the oral exam on December 8, 2010. Mr. Villanueva seconded the motion. There was no discussion.

VOTE: The motion passed unanimously by voice vote.

VIII. Review, Discussion and Possible Action on License Renewal Applications: The Board will review, discuss, and take action to approve, deny, or issue a deficiency notice for the following physicians’ license renewal applications and/or dispensing registration renewals:

Brian Allen
Janice Clark

Paul Ledesma
Stefan Mudryl

Lisa Pallini
Terrence Roach

MOTION: Dr. Leonetti moved to approve the license renewal applications for all six listed doctors. Ms. Villanueva seconded the motion. There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

IX. Executive Director's Report – Review, Discussion and Possible Action

a. Open complaint status report.

Ms. Penttinen reported that she neglected to run the complaint report this morning, but that there have been only two new investigation cases opened. One was a complaint received from the public; the other is the malpractice report received last month regarding Dr. Bruce Levin. Dr. Kaplan had his copy of last months complaint report and noted that there were 42 open complaints at that time, so there would now be 44. With regard to complaint investigations, there was brief discussion about the status of the new investigation consultants hired by the Board. Ms. Penttinen advised that all three consultants have signed the consulting contract and she is in the process of obtaining W-9 forms and finalizing all paperwork so the Board can soon begin sending cases out to them.

b. Status of complaint filed with Ombudsman's Office by Dr. Dershowitz.

The Board members reviewed the letter submitted by Ms. Penttinen to the Ombudsman's Office in response to their preliminary report. Ms. Penttinen advised she is awaiting the final report from the Ombudsman which should include their recommendations and directives for any action they feel necessary. She will forward the report to the Board once received.

c. Malpractice case report.

- i. Kevin O'Brien, DPM. PICA report indicates patient C.P. filed a claim on 08/02/2010; injury and allegations are unknown at this time. This has not been previously investigation by the Board.

The Board members reviewed the PICA report and concluded that no action will be taken at this time.

X. Call To The Public

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

XI. Next Board Meeting Date:

- a. October 13, 2010, 8:30 a.m.

XII. Adjournment

There being no other business before the Board, the meeting was adjourned at 9:42 a.m.