



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;
M. Elizabeth Miles, Public Member; John Rhodes, Public Member; Sarah Penttinen, Executive Director

DRAFT BOARD MEETING MINUTES

July 13, 2011; 8:30 a.m.
1400 West Washington St., B1
Phoenix, AZ 85007

Board Members: Barry Kaplan, D.P.M, President
Joseph Leonetti, D.P.M., Member
Barbara Campbell, D.P.M., Member
M. Elizabeth Miles, Secretary-Treasurer
John Rhodes, Public Member

Staff: Sarah Penttinen, Executive Director

Assistant Attorney General: Anne Froedge

The Agenda for the meeting is as follows:

I. Call to Order

Dr. Kaplan called the meeting to order at 8:30 a.m.

II. Roll Call

Dr. Kaplan noted for the record that all Board members were present as were Ms. Penttinen and Ms. Froedge.

III. Approval of Minutes

a. June 8, 2011 Regular Session Minutes.

Dr. Kaplan noted one spelling error on page 2 of the minutes.

MOTION: Dr. Leonetti moved to approve the minutes with the spelling correction as noted. Ms. Miles seconded the motion. There was no discussion.

VOTE: The motion passed unanimously by voice vote.

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

g. 10-18-M – Gary Friedlander, DPM: Practice below the standard of care.

Dr. Friedlander was present with attorney Bruce Crawford. Physician Investigator William Leonetti was present and summarized the case as follows: Patient K.L. was seen by Dr. Friedlander for removal of an ingrown toenail on the right first toe. Near the end of the procedure the patient began to feel as if she was going to faint which caused some confusion. The tourniquet which had been placed on the patient's toe to control bleeding during the procedure was inadvertently left on and the toe was bandaged. The patient discovered this 24 hours after the procedure when she removed the bandage. She was seen in Dr. Friedlander's office by associate Dr. Tassone. There was numbness and discoloration to the toe. The patient filed an informal malpractice claim against Dr. Friedlander and a small settlement was paid to the patient. Dr. Leonetti stated he spoke with the patient who said her toe was initially very discolored and still remains slightly discolored. The patient stated she has normal use of the toe and normal sensation, but also experiences some nerve pain or "electrical sparking" sensations. Dr. Leonetti also spoke with Dr. Friedlander who admitted that in the excitement of the patient nearly fainting he had left the tourniquet on the patient's toe.

Dr. Kaplan asked Dr. William Leonetti about the charting for this procedure. Dr. Leonetti stated there was a contradiction because the chart states the tourniquet was removed and there was instantaneous perfusion in the toe. There was brief discussion regarding the order of events during Dr. Friedlander's care of the patient and the confusion caused by the patient's near fainting.

Dr. Friedlander was present with attorney Bruce Crawford. Mr. Crawford addressed the Board members and stated the following: There was no debate that the tourniquet was left on the patient's toe but it was an inadvertent mistake. When Dr. Friedlander dictated his operative report he thought he had taken the tourniquet off. Dr. Friedlander has now developed a checklist to prevent a recurrence of this incident and also used a different method of controlling bleeding during this type of procedure. The patient has been evaluated by another physician who advised that the issues she is experiencing are minor and likely to decrease over time.

There was brief discussion between Dr. Joseph Leonetti and Dr. Friedlander regarding whose responsibility it was to remove the tourniquet and the method of removal. Dr. Friedlander stated it was his responsibility and he typically removes tourniquets by cutting them off. Dr. Kaplan stated that even though it was likely an accident because Dr. Friedlander was in a rush, he was concerned about the tourniquet being left on. He also is concerned about the inaccurate operative report. Dr. Kaplan asked if there was a recommendation from the Board. Dr. Leonetti recommended a Letter of Concern and Dr. Kaplan agreed.

MOTION: Dr. Joseph Leonetti moved to dismiss this case with a Letter of Concern for inadequate record-keeping and for leaving the tourniquet on the patient's toe following the procedure. The motion was seconded by Mr. Rhodes. There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

Immediately following the conclusion of this matter the Board recessed at 8:45 a.m. During the recess, Assistant Attorneys General Christopher Munns and Anne Froedge advised Ms. Penttinen and Dr. Kaplan that the meeting could not continue due to a problem with Open Meeting Law compliance. The meeting agenda had been physically posted as required. Under the Arizona Open Meeting Laws, the agenda is not required to be posted to the Board's website. However, the Board's website states that all agendas also will be posted online which then makes doing so a requirement under the Open Meeting Laws. This meeting agenda was not posted to the website; therefore, the 24-hour posting requirement was not met.

The Board reconvened at 8:53 a.m. and Ms. Froedge explained to the Board and the present public members why the meeting would have to be vacated. The actions already taken during this meeting will need to be ratified at a future Board meeting. Ms. Froedge confirmed to Dr. Friedlander that he would not need to be present at such future meeting. Ms. Penttinen will work with the Attorneys General for the proper procedure for ratification. Ms. Penttinen advised that due to the time frames involving license renewal applications, a special meeting will have to be held prior to the next regularly-scheduled meeting in August. The Board discussed this and agreed on a tentative date of July 22, 2011. Ms. Penttinen will confirm this with the Board members following the meeting today. All items on today's agenda which were not reviewed will be rescheduled for a future Board meeting.

MOTION: Ms. Miles moved to vacate the meeting. Dr. Leonetti seconded the motion. There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote and the meeting was adjourned at 9:02 a.m.