



Janice K. Brewer  
Governor

## State Of Arizona Board of Podiatry Examiners

"Protecting the Public's Health"

1400 W. Washington, Ste. 230, Phoenix, AZ 85007; (602) 542-3095; Fax: 542-3093

Barry Kaplan, DPM; Joseph Leonetti, DPM; Barbara Campbell, DPM;  
M. Elizabeth Miles, Public Member; John Rhodes, Public Member; Sarah Penttinen, Executive Director

### **BOARD MEETING MINUTES**

April 10, 2013; 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  
M. Elizabeth Miles, Secretary-Treasurer  
John Rhodes, Public Member

Staff: Sarah Penttinen, Executive Director

Assistant Attorney General: John Tellier

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

Dr. Leonetti called the meeting to order at 8:33 a.m.

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

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

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

a. March 13, 2013 Regular Session Minutes.

MOTION: Dr. Kaplan moved to approve the minutes with corrections of typographical errors. Dr. Campbell seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

b. March 13, 2013 Executive Session Minutes.

MOTION: Dr. Kaplan moved to approve the minutes as drafted. Dr. Campbell seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

#### **IV. Review, Discussion and Possible Action – Probation / Disciplinary Matters**

a. 08-44-C – Alex Bui, DPM: Monthly update.

Ms. Penttinen reviewed the update provided by Dr. Bui which indicates that he has no charts to submit for durable medical equipment charges for the month of March 2013. Dr. Leonetti asked how much more probation time Dr. Bui has. Ms. Penttinen stated she did not have his file with her but would check and report back to the Board. She also confirmed for Dr. Kaplan that Dr. Bui does need to submit a written request for termination of his probation.

b. 09-17-B – J. David Brown, DPM: Monthly update.

Ms. Penttinen advised the Board that she is still trying to obtain information from Dr. Sucher regarding when Dr. Brown will be having a pain management evaluation. She reviewed an email she sent to Dr. Sucher's assistant on April 3 asking about this and advised the Board members that she has not yet received any response. Ms. Penttinen stated she will continue to follow up and will contact Dr. Brown directly if she does not hear anything back from Dr. Sucher or his staff. Ms. Penttinen also reviewed the

progress report from Dr. Sucher dated April 3, 2013 which indicates that Dr. Brown is in compliance with all monitoring requirements.

c. 11-21-M – Robert Fridrich, DPM: Monthly update.

Dr. Leonetti advised the Board members that Dr. Fridrich provided copies of two charts for the previous month. He stated the charts are well documented. He added that there may be some concerns regarding Dr. Fridrich's billing for anesthesia and surgical trays, but he does not have the EOB's so he does not know what Dr. Fridrich is actually getting reimbursed for. Dr. Leonetti stated he will continue to monitor the billing charges each month and may need to request copies of the EOB's at a future date.

**V. Review, Discussion and Possible Action on Administrative Matters**

a. Update regarding podiatrists' use of social media advertising and if such constitutes "fee splitting" under the Board's statutes.

Ms. Penttinen advised that she attempted to contact Groupon, Living Social and Deal Chicken. Deal Chicken's website has no phone number listed anywhere so she sent an email asking for their merchant services division to contact her. She has not heard back from them or from Groupon. She was able to speak with a merchant services representative at Living Social. That person advised her that they do not enter into merchant contract based on a flat fee; all of their contracts are based on a percentage of sales.

Dr. Campbell advised that she had recently attended an event for the Pin Pointe laser company, but she did not hear any discussion there regarding social media advertising. Dr. Campbell also explained that she was aware of Pin Pointe going to establishments such as nail salons to promote their laser and a person who then refers a patient for laser treatment receives from the doctor some type of compensation such as a gift card. There was brief discussion as to whether or not that specific activity would constitute employing a solicitor to obtain business.

The physician Board members reviewed social media advertisements for four different podiatrists. Dr. Kaplan stated he would like to open a complaint investigation for each of them to determine if the social media contracts would be considered fee splitting. The four podiatrists are Dr. Rajesh Daulat, Dr. Spencer Niemann, Dr. Arthur Siedner, and Dr. Bruce Werber.

**MOTION:** Dr. Leonetti moved to open complaint investigations for the four podiatrists stated above to investigate whether or not their social media advertising and deals and whether or not they are using solicitors to obtain business. Dr. Campbell seconded the motion.

**DISCUSSION:** Upon discussion Dr. Leonetti stated that this is a rapidly emerging issue and many doctors may not realize that social media deals and advertising may be a problem. He suggested that these cases be given a high priority to complete them as soon as possible.

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

b. Review of new license applications for the following physicians:

- i. Nicholas Giovinco, DPM
- ii. Mark Little, DPM
- iii. Jeffrey Thomas, DPM.

The Board members first reviewed the applications for Drs. Giovinco and Thomas.

**MOTION:** Dr. Leonetti moved to approve Drs. Giovinco and Thomas to sit for the oral license exam. Dr. Kaplan seconded the motion.

**DISCUSSION:** There was no discussion on the motion.

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

The Board members then reviewed the application file for Dr. Little. Dr. Little previously applied for a license and after discussion with the Board on December 12, 2012 elected to withdraw his application. He has now re-applied. Dr. Little was present. The Board members have reviewed the additional information that Dr. Little submitted with his re-application with regard to his previous substance abuse, improper billing and the revocation of his license by the California Podiatry Board. Dr. Little stated he has not practiced as a podiatrist for several years but has maintained continuing medical education.

Dr. Leonetti asked Dr. Little about his inability to participate in any federal healthcare programs. Dr. Little stated that was not permanent and he will be able to re-apply with the federal programs after he obtains a state license. There was brief discussion among the Board members and Dr. Little regarding Dr. Little's employment with Dr. Antonius Su. Dr. Little stated he works as a back office assistant and observes but does not perform any clinical tasks. Dr. Little stated he also has spent some time working with Dr. Kelley in casa Grande.

Upon discussion with Dr. Kaplan, Dr. Little stated that if he were granted a license his goal would be to work and/or volunteer in rural/underserved medical communities where there is a greater need for podiatrists. Dr. Little clarified for Dr. Kaplan that the last time he performed surgery on a patient was in 2004. Dr. Kaplan stated his concern that, although Dr. Little has maintained CME, his abilities may not be the same as they were previously. Dr. Little stated that he does not intend to immediately go into surgical practice; he plans to reintegrate into practice in a series of steps involving observing and working with other podiatrists to supervise him until he is able to refresh his surgical skills. In further discussion Dr. Little added that, if it were offered, he would be willing to accept a practice limitation if he is granted a license. Dr. Leonetti discussed that there would also need to be some type of oversight of Dr. Little's billing. There was also brief discussion about Dr. Little might be able to obtain staff privileges at hospitals or surgical centers. Dr. Little stated he plans to work in the Casa Grande area and has had discussions with Dr. Kelly about working with him.

Dr. Little clarified for Dr. Campbell that he has not yet started to look for malpractice insurance because there would be no need to do so if he is not going to be able to obtain a license. He also advised Dr. Kaplan that he does not plan to do his own billing; he has looked into using companies such as Thousand Cranes. In discussion with Ms. Miles, Dr. Little stated that the substance abuse treatment program he underwent while he was incarcerated is the only such program he has ever completed. He also explained the type of treatment activities which were involved in that program. He also stated he has had no relapses at all. There was also brief discussion regarding the restitution that Dr. Little is required to pay to the federal government. Dr. Leonetti noted that the restitution amount is quite significant.

**MOTION:** Dr. Leonetti moved to go into Executive Session for the purpose of obtaining legal advice. Ms. Miles seconded the motion:  
**DISCUSSION:** There was no discussion on the motion.  
**VOTE:** The motion passed unanimously by voice vote and the Board adjourned into Executive Session at 9:29 a.m.

The Board returned to Regular Session at 9:39 a.m.

**MOTION:** Ms. Miles moved as follows: Dr. Little's application has substantive deficiencies for the PMLexis/National Board Part III exam and the Board's oral exam. Dr. Little should be granted permission to sit for the Board's oral exam in June. Once the Board receives the results of both exams, Dr. Little would be asked to re-appear for further discussion with the Board to determine whether a license can be granted. Dr. Kaplan seconded the motion.  
**DISCUSSION:** Ms. Miles advised Dr. Little that if he does not pass both the PMLexis and oral exam then he would not meet the minimum licensing requirements; however, if he does pass those exams she is willing to entertain the idea of possibly granting him a license subject to certain parameters or possible restrictions. Dr. Leonetti stated he agreed with the motion.  
**VOTE:** The motion passed unanimously by voice vote.

## **VI. Executive Director's Report – Review, Discussion and Possible Action**

### **a. Open complaint status report.**

Ms. Penttinen reviewed the report which indicates that there were two new complaints received in the last month and there are currently 58 open complaints.

### **b. Malpractice case report. (None at this time.)**

**VII. Call To The Public**

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

**VIII. Next Board Meeting Date:**

a. May 8, 2013 at 8:30 a.m.

**IX. Adjournment**

MOTION: Ms. Miles moved to adjourn the meeting. Dr. Leonetti seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote and the meeting was adjourned at 9:48 a.m.