



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

### **BOARD MEETING MINUTES**

October 8, 2014; 8:30 a.m.  
1400 West Washington St., B1  
Phoenix, AZ 85007

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

Staff: Sarah Penttinen, Executive Director

Assistant Attorney General: John Tellier

The agenda items were not reviewed in the order in which they appear in the minutes.

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

The meeting was called to order at 8:38a.m.

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

Dr. Leonetti was absent. All other Board members were present as well as Ms. Penttinen and Mr. Tellier.

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

##### **a. August 13, 2014 Regular Session Minutes.**

MOTION: Dr. Kaplan moved to approve the minutes. Ms. Miles seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

##### **b. August 13, 2014 Executive Session Minutes.**

MOTION: Dr. Kaplan moved to approve the minutes. Mr. Rhodes seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

##### **c. September 10, 2014 Regular Session Minutes.**

MOTION: Ms. Miles moved to approve the minutes. Dr. Kaplan seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

##### **d. September 10, 2014 Executive Session Minutes.**

MOTION: Dr. Kaplan moved to approve the minutes. Ms. Miles seconded the motion,

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

##### **e. September 12, 2014 Special Meeting minutes.**

Review of this item was tabled to modify the minutes to more accurately reflect that it was a special committee meeting and to remove Ms. Miles and Mr. Rhodes from the listed Board members in the heading because they did not participate in the committee.

#### **IV. Review, Discussion and Possible Action –Review of Complaints (NOTE: The subject matter listed for each agenda item represents the allegation(s) being investigated. The presence of allegations does not automatically indicate violation of Statute or Rule in connection with the practice of podiatry.)**

a. **13-29-M – Richard Jacoby, DPM: Practice below the standard of care due to improper surgery.**

Dr. Jacoby was present with attorney Bruce Crawford. Dr. Jerome Cohn was the investigator for the case and was present.

MOTION: Dr. Campbell moved to dismiss the complaint finding no violations. Ms. Miles seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

b. **14-11-C – Glen Robison, DPM: Administrative closure due to insufficient complaint information.**

Dr. Robison was not present. There currently is no investigator assigned to the case. Ms. Penttinen explained that the complaint information was insufficient to determine the allegation being made against Dr. Robison other than a reference to computer skills. Ms. Penttinen was unable to contact the complainant by phone and mail sent to the complainant's address was unanswered. She requested that the complaint be administratively closed due to insufficient complaint information.

MOTION: Ms. Miles moved to administratively close the complaint. Dr. Campbell seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

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

a. **14-09-B – Janna Kroleski, DPM: Monthly update.**

Ms. Penttinen advised that has contacted Dr. Loes to obtain a copy of the letter from Dr. O'Connell referenced as an attachment to his last progress report. Dr. Loes suggested that Dr. O'Connell be contacted directly. A subpoena has been sent to Dr. O'Connell for her report. Ms. Penttinen also advised that she contacted the Arizona Department of Health Services regarding the use of the title "BHT Counselor" as written on the education completion certificate submitted by Dr. Kroleski. She was told that there is no prohibition on the use of the title "counselor." Ms. Penttinen also contacted STI where the education course was completed and was told that the "BHT Counselor" has a Bachelor's Degree in mental health services and is supervised by a LISAC. Ms. Miles also suggested that Ms. Penttinen should subpoena all records from Dr. Loes, particularly in light that Dr. Kroleski has provided him with authorization to release records to this Board.

b. **14-25-B – Kelvin Crezee, DPM: Status update. (Refusal of consent agreement and request for formal hearing.)**

Ms. Penttinen advised that Dr. Crezee has declined the consent agreement offered to him in this case and has requested a formal hearing per the Board's previous vote. She will prepare the formal complaint and arrange scheduling of the hearing with the Office of Administrative Hearings.

c. **09-02-C and 09-21-C – J. David Brown, DPM: Status of formal hearing and consideration of expert witness(es).**

Ms. Penttinen advised that there have been some pre-hearing motions filed by Dr. Brown's attorney regarding scheduling of the hearings as well as requests for settlement conferences.

MOTION: Ms. Miles moved to go into Executive Session for the purpose of obtaining legal advice. Dr. Campbell 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 9:13 a.m.

The Board returned to Regular Session at 9:25 a.m.

Ms. Penttinen confirmed for the Board members that consent agreements had been offered to Dr. Brown in both cases and reviewed the order terms of those agreements.

- MOTION:** Ms. Miles moved to have one Public Member and one Physician Member participate in the settlement conferences for these cases, and that any terms agreed to in those conferences be referred back to the full Board for consideration and affirmative approval. Mr. Rhodes seconded the motion.
- DISCUSSION:** Upon discussion, the Board members were in agreement that Ms. Miles and Dr. Campbell will attend the settlement conferences on the Board's behalf. In addition the order terms previously offered via the consent agreements will be the basis for negotiations during those proceedings.
- VOTE:** The motion passed unanimously by voice vote.

The Board members were in agreement that Ms. Miles and Dr. Campbell will attend the settlement conferences on the Board's behalf.

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

### **a. Review of self-report from Mark Pipher, DPM.**

Ms. Penttinen advised that Dr. Pipher was not available to appear at today's meeting as requested but is available to appear for the November meeting. Ms. Penttinen has requested a copy of the police report which has not been received. However, she was able to obtain a copy of the original court complaint and final plea agreement which indicates that Dr. Pipher pled guilty to misdemeanor DUI. He has completed some of the sentencing requirements but not all. There also was a discrepancy regarding the blood alcohol level that Dr. Pipher self-reported versus the court documents.

**MOTION:** Ms. Miles moved to require Dr. Pipher to undergo an evaluation, per A.R.S. §32-852.01(F), by a Board-approved addiction medicine specialist at his own expense. Dr. Kaplan seconded the motion.

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

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

**MOTION:** Ms. Miles moved to make the previously approved motion for evaluation be completed within 60 days. Dr. Campbell seconded the motion.

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

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

### **b. Steven Moore, DPM: Request for rehearing / review of denial of license application.**

Dr. Moore was present with attorney Brent Peugnet. Ms. Penttinen reviewed the circumstances of Dr. Moore's application process which includes two separate applications, the first of which was withdrawn by Dr. Moore in lieu of denial. The Board then denied Dr. Moore's most recent license application. An informal letter from Mr. Peugnet has now been received requesting a reconsideration of the denial.

**MOTION:** Ms. Miles moved to go into Executive Session for the purpose of obtaining legal advice. Dr. Campbell 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 9:50 a.m.

The Board returned to Regular Session at 10:00 a.m.

Ms. Miles reviewed the circumstances of denial of an application and appeal of such. She feels there has been no lack of due process but that the Board should consider the correspondence dated September 24, 2014 from Mr. Peugnet as a formal request for a hearing and/or re-consideration. Both Dr. Moore and Mr. Peugnet addressed the Board to answer questions regarding the circumstances of both of his applications and the timing of the Board's denial of the second application.

**MOTION:** Ms. Miles moved to issue Dr. Moore's license subject to a consent agreement for an immediate Decree of Censure due to the actions taken by Dr. Moore and the circumstances of his initial license application. If the consent agreement is not accepted within 30 days then the matter will go to a formal hearing. Dr. Kaplan seconded the motion.

DISCUSSION: There was no discussion on the motion.  
VOTE: The motion passed unanimously by roll call vote.

**c. Review of new license applications for the following podiatrists:**

- i. Steven Moore, DPM  
This item was vacated due to action taken in agenda item VI(b).
- ii. Matthew Kaiman, DPM.

MOTION: Dr. Campbell moved to approve Dr. Kaiman to sit for the oral exam in December 2014 and to issue his license upon successful completion thereof.  
Ms. Miles seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

**d. Review of license renewal applications for the following podiatrists:**

Michael Brewer Jerome Steck

MOTION: Ms. Miles moved to approve the renewal application for Dr. Brewer. Mr. Rhodes seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

No action was taken on Dr. Steck's renewal application.

**e. Review of 2015 Board meeting dates and oral licensing exam dates.**

Ms. Penttinen reviewed the proposed Board meeting dates for 2015. Usual meeting dates are on the second Wednesday of each month. However, in November 2015 the second Wednesday is a State holiday.

MOTION: Ms. Miles moved to approve the proposed dates, including oral licensing exams for the June and December meetings, and to try to secure a meeting location for the 10<sup>th</sup> of November. Dr. Kaplan seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

**f. Request from Tosha Klotzbach, DPM for license application extension.**

Ms. Penttinen explained that Dr. Klotzbach previously held a license which expired on June 30, 2009. Dr. Klotzbach wishes to return to practice in Arizona but missed the application deadline for the December 2014 oral exam. Dr. Klotzbach stated she was unable to renew her license then because of deployment in the US military and is actually still in Afghanistan at this time. However, the specific date of her deployment is unknown. Mr. Tellier advised that if the deployment date was prior to June 30, 2009 then it can be considered a renewal application. If the deployment date was after June 30, 2009 then Dr. Klotzbach must re-apply but the Board may decide, if they see fit, to waive the application deadline and allow her to sit for the oral exam on December 10, 2014.

MOTION: Mr. Rhodes moved to allow Dr. Klotzbach to renew her license or waive the application deadline as stated during discussion. Dr. Kaplan seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

**g. Malpractice case report. (None at this time.)**

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

**a. Open complaint status report.**

Ms. Penttinen explained that the current open complaints have been reviewed regarding date received and current status. There are currently 63 open complaints including those which were on today's agenda. Some cases will be assigned to investigators and some will be forwarded directly to the Board once the licensee's response is received.

**VIII. Call To The Public**

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

**IX. Next Board Meeting Date:**

a. November 12, 2014 at 8:30 a.m.

**X. Adjournment**

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

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed by unanimous vote and the meeting was adjourned at 10:47 a.m.