



Douglas A. Ducey
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

January 14, 2015; 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, AAG; Frankie Shinn-Eckberg, AAG

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

I. Call to Order

The meeting was called to order at 8:45 a.m.

II. Roll Call

Dr. Campbell was absent at roll call. All other Board members were present as well as Ms. Penttinen. Mr. Tellier was present with Ms. Frankie Shinn-Eckberg, AAG.

(NOTE: Any items for which Dr. Campbell was not present are noted as much. All other items were attended by Dr. Campbell.)

III. Approval of Minutes

a. November 12, 2014 Regular Session Minutes

Dr. Campbell was not present.

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.

b. December 10, 2014 Regular Session Minutes

Dr. Campbell was not present

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

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

c. December 10, 2014 Executive Session Minutes

Dr. Campbell was not present.

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.

IV. Review, Discussion and Possible Action – Review of Complaints (NOTE: The presence of a complaint does not automatically indicate violation of Statute or Rule in connection with the practice of podiatry.)

a. **12-15-C – Laureen Cota, DPM.**

Dr. Cota was not present. There was not an initial investigator assigned to the case. After reviewing all materials and information in the file the Board members determined that additional information would not be needed.

MOTION: Dr. Campbell moved to dismiss the case finding no violations. Dr. Kaplan seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

b. **13-25-C – Marissa Haddad, DPM.**

Dr. Haddad was not present. Dr. Campbell served as the investigator for the case and recused herself from deliberation. After reviewing Dr. Campbell's findings the remaining Board members determined that no further investigation was needed.

MOTION: Ms. Miles moved to dismiss the case finding no violations. Mr. Rhodes seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote with Dr. Campbell recused.

c. **14-07-C – Stephen Geller, DPM.**

Dr. Geller was not present. There was no initial investigator assigned to the case. After reviewing all materials and information in the file the Board members determined that no further investigation was necessary.

MOTION: Ms. Miles moved to dismiss the case finding no violations. Dr. Kaplan seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

d. **14-27-C – Larry Zonis, DPM.**

Dr. Zonis was not present. Mr. Rhodes recused himself due to personal acquaintanceship with the complainant. There was no initial investigator assigned to the case. After reviewing all materials and information the Board members determined that no further investigation was necessary.

MOTION: Ms. Miles moved to dismiss the case finding no violations. Dr. Leonetti seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote with Mr. Rhodes recused.

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

a. **09-02-C and 09-21-C – J. David Brown, DPM: Status update regarding consent agreement.**

Dr. Campbell was not present for review of this matter. Ms. Penttinen advised that these two cases have been resolved via the consent agreement previously approved by the Board which has now been executed.

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

Ms. Penttinen reviewed that last month the Board had received a final report from Dr. Kroleski's counselor which stated that treatment was concluded due, at least in part, to Dr. Kroleski feeling she did not need any further treatment. The Board had requested follow-up with that counselor. Ms. Penttinen advised that she had sent two request letters to the counselor but has not received a response. When she called the counselor's office she was told to email the office manager which she did, explaining that a subpoena was previously sent and that Dr. Kroleski was supposed to have signed an authorization for the counselor to provide information to the Board. Yesterday Ms. Penttinen received a fax from the counselor which contained only copies of the two request letters she had previously sent to the counselor.

Ms. Miles suggested sending another subpoena. She also would like a letter sent to Dr. Kroleski advising her that her counselor is being uncooperative with providing information to the Board and that may have an impact on her consent agreement with the Board. Ms. Miles also would like the letter to the counselor advising her that failure to cooperate with the subpoena will result in enforcement in superior court if needed. Mr. Tellier advised that the letter to the counselor should indicate that the Attorney General's Office is aware of the situation and copy him on the letter. Ms. Penttinen will follow up.

c. 14-18-B - Mark Pipher, DPM: Status update including investigation interview request from Board.

Dr. Pipher was present with attorney Scott Maasen for an investigational interview. The purpose of the interview was to discuss the status of Dr. Pipher's compliance with court requirements related to his arrest and conviction for driving under the influence of alcohol. Ms. Penttinen confirmed that Dr. Pipher complied with the Order for Evaluation and the Board is now in receipt of the evaluation report from Dr. Michel Sucher. Dr. Sucher stated in his report that he believes this was an isolated incident and he has no concerns regarding Dr. Pipher's fitness to practice. He does not believe Dr. Pipher needs any further evaluation or treatment other than to complete the education course required by the court. There was discussion regarding the date of the incident and the time that has elapsed until Dr. Pipher's appearance before the Board today. The minutes of the April and May 2014 Board meetings were reviewed in this regard. Dr. Leonetti and Ms. Miles expressed concern that this case should have been handled in a more expeditious manner by the Board.

Dr. Pipher and his attorney both addressed the Board to discuss the circumstances of Dr. Pipher's arrest, his history of alcohol use, and the status of his driving privileges and associated court requirement.. They his current compliance with the courts orders under his plea agreement. Dr. Pipher stated that he has not had any repercussions as far as facility privileges. Ms. Miles stated that based on Dr. Sucher's report she does not believe Dr. Pipher needs any additional monitoring; however, she believes that a Letter of Concern would be appropriate given the totality of the circumstances.

MOTION: Dr. Leonetti moved to table this case for 60 days from today to allow Dr. Pipher to complete the court required education course, and he must provide proof of completion to the Board. Ms. Miles seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

d. 14-25-B – Kelvin Crezee, DPM: Status update regarding formal hearing.

Ms. Penttinen advised that the formal hearing in this matter has been set for February 17, 2015. Ms. Miles asked about a settlement conference and Mr. Tellier explained that when he referenced that during the last Board meeting he was in error. Ms. Penttinen said she expects that Dr. Crezee's attorney will request a rescheduling of the formal hearing but that she also advised him that in the event of a request for a settlement conference the Board will negotiate terms no less than what was previously contained in the consent agreement offered by the Board.

VI. Review, Discussion and Possible Action on Administrative Matters

a. Election of Board officers: President and Secretary-Treasurer.

MOTION: Dr. Kaplan moved to elect Dr. Campbell to continue as Board President and Mr. Rhodes to continue as Board Secretary-Treasurer. Ms. Miles seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

b. Review of new license applications for:

- i. Edward Au, DPM
- ii. Katherine Kennedy, DPM

MOTION: Dr. Kaplan moved to approve both applicants to sit for the oral licensing exam and approve their licenses 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.

c. Review of podiatry student rotations for Midwestern University.

Ms. Penttinen reviewed that the Board members had wanted to obtain specific information about the locations where podiatry students were participating in externships or clerkships as part of their schooling. She contacted Dr. Jeffrey Page who told her that because of legal reasons Midwestern University would not allow him to submit copies of actual contracts or agreements with specific locations. Dr. Page did submit copies of three contract templates that are used by Midwestern for this purpose.

Dr. Leonetti noted that in an email to Ms. Penttinen Dr. Page stated he was researching whether or not he could share a list of affiliated training facilities. However, it is part of the Board's statutes that such training agreements or affiliations have to be approved by the Board and he believes Dr. Page is aware of this requirement. Dr. Kaplan stated he had questions about the templates with regard to what the students are being permitted to do. Dr. Campbell stated it is likely up to the clinical instructor to decide those activities. Dr. Kaplan stated he was concerned about references in the templates to compensation. He also expressed concern that his name was used improperly in correspondence between his employer and Midwestern regarding this matter.

Dr. Leonetti stated that another request, or subpoena if necessary, should be sent to Dr. Page to obtain the information about the training programs that Midwestern students are participating because at this time none of them have been approved by the Board. He would like a complete list of all locations and who is in charge of training at those locations. Dr. Kaplan also has a concern regarding billing in that students cannot bill for services but the doctor who is supervising them can. He feels there are too many questions raised by the information in the templates regarding billing and the types of activities that students are being allowed to perform.

There was brief discussion regarding the need for students to be able to perform hands-on procedures (under supervision) in the clinical (or externship) setting. There also was additional discussion regarding the billing procedures in place under these affiliation agreements. The Board members agreed that additional information needs to be submitted by Dr. Page (or Midwestern) regarding their affiliation agreements otherwise they cannot be approved by the Board. Mr. Tellier added that in the absence of a Board-approved program, the students would be considered to be practicing podiatric medicine without a license. The Board members were in agreement to advise Dr. Page of this and ask him again to provide the requested information regarding Midwestern's training affiliation agreements.

d. Malpractice case report. (None at this time.)

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

a. Open complaint status report.

Ms. Penttinen advised that she received five new complaints in the last month. There are currently 54 open complaints including those which were on today's agenda. The Board members would like all cases for Dr. Kroleski, Dr. Discont, Dr. Crezee and Dr. O'Brien to be processed as soon as possible. Ms. Penttinen advised that with some of the cases for those doctors she has encountered delays due to subpoenaed records and incomplete information from the complainants but that she is following up on them to expedite the investigations. She also will be following up with Dr. Polakof regarding a case assigned to her regarding Dr. Bui as well as obtaining the additional records requested on a case for Dr. Hayman.

VIII. Call To The Public

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

IX. Next Board Meeting Date:

- a. February 11, 2015 at 8:30 a.m.

X. Adjournment

MOTION: Dr. Kaplan moved to adjourn the meeting. Mr. Rhodes 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 10:18a.m.