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FLORIDA | Board of Podiatric Medicine
Probable Cause Panel

DRAFT MINUTES
February 23, 2015

Conference Call
Department of Health
4042 Bald Cypress Way
Tallahassee, FL 32399



Mark S. Block, DPM
Chair

Joseph Lesho
Program Operations Administrator

Jose Montalvan
Regulatory Supervisor

1 **Conference call started: 9:19 a.m.**

2
3 The meeting was called to order by Dr. Block, Chair. Those present for all or part of the meeting included the following:

4
5 **MEMBERS PRESENT:**

6 Mark S. Block, DPM, Chair
7 Sherwood A. Weisman, DPM

8
9 **STAFF PRESENT:**

10 Joseph Lesho, Program Operations Administrator
11 Jose Montalvan, Regulatory Supervisor/Consultant

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13 **BOARD COUNSEL:**

14 Mary Ellen Clark, Esq., Assistant Attorney General
15 Office of Attorney General

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17 **PROSECUTION COUNSEL:**

18 Yolanda Green, Esq., Assistant General Counsel
19 Matthew Witters, Esq., Senior Attorney
20 Maegan Grubbs, Regulatory Specialist II

21
22 **COURT REPORTER:**

23 Court Reporter: For the Record Reporting
24 Phone: (850) 222-5491
25 Contact: Kay Fitchner

26 *Please note the minutes reflect the actual order agenda items were discussed and may differ from the agenda outline. AUDIO from this meeting can be found online: <http://floridaspodiatricmedicine.gov/meeting-information/past-meetings>*

27 Before the Reconsiderations portion of the agenda began, Ms. Mary Ellen Clark asked the panel members if they received all of the required materials in advance of the meeting. Drs. Block and Weisman each stated yes.

28 Ms. Clark asked the panel members if they read and understood the materials provided to them. Drs. Block and Weisman each stated yes.

29 Ms. Clark asked the panel members if they experienced any problems while trying to review the materials. Dr Block noted a misspelling on one of the respondent's names. Dr. Weisman noted the same misspelling, stating that it was item D-02 on the agenda.

30 Ms. Clark asked the panel members if they felt that there were any circumstances that would disqualify or otherwise make it improper for them to hear and deliberate on any cases on the agenda. Drs. Block and Weisman each stated no.

31
32 **Reconsiderations started at 9:24 a.m.**

33 I. R-01 Lonnie Brian Robinson, DPM, Case No. 2013-13393

34 Dr. Robinson was not present. The Respondent was represented by attorney, Ben Newman, Esq., who was not present at the commencement of the meeting.

35 Ms. Green presented case number 2013-13393, Department of Health v. Lonnie Brian Robinson. The Administrative Complaint contained two counts: Count I, s. 456.072(1)(x), FS, alleged failure to report in writing his Driving Under the Influence-Impairment (DUI) conviction within 30 days of entering a plea of nolo contendere, and Count II, s. 456.072(1)(w), FS, alleged failure to comply with the requirements for profiling and credentialing by not updating his practitioner profile to reflect his plea of nolo contendere to DUI.

36 Ms. Green explained that upon further review of the circumstances, the department recommended that both counts be dismissed. She stated that Count II, the failure to update his practitioner profile, was not related to the practice of podiatry; therefore, updating his practitioner profile was not required by statute. Ms. Green clarified that only if additional evidence, such as a history of impairment, had been found, the DUI charge could have been related to the practice of podiatry.

37 Regarding Count I, the failure to report his DUI, Dr. Robinson entered into the plea on October 28, 2013, and the complaint was filed November 6, 2013. Ms. Green explained that the initial complaint to the department had been submitted before Dr. Robinson was required to report the plea. In mitigation, she explained that Dr. Robinson submitted documentation that the

1 requirements of the DUI had been fulfilled, his probation was terminated early, and a Laws and Rules course was
2 completed.

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4 Dr. Weisman asked Ms. Clark what the board would do if it heard the case, to which she responded by saying that board
5 rules specify the discipline for this type of violation, but that mitigating circumstances would allow the board to lessen the
6 penalty.

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8 The panel took a short break after receiving word that Dr. Robinson's attorney, Ben Newman, Esq., was attempting to call
9 in. Mr. Newman was not able to get through, so the meeting continued.

10
11 Dr. Block suggested that the panel vote on each count separately. He then motioned to dismiss the failure to update the
12 practitioner profile count. Dr. Weisman seconded, and the motion carried unanimously.

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14 Dr. Block then made a motion to table the failure to report count until the Respondent's attorney could be reached. Dr.
15 Weisman seconded, and the motion carried unanimously.

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17 Before the next portion of the agenda could begin, Mr. Newman joined the conference call, and the panel continued the
18 discussion of Dr. Robinson's case.

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20 Ms. Green presented the case again and gave a brief overview of the previous discussion.

21
22 Mr. Newman asked that the board consider the totality of the circumstances: Dr. Robinson had accepted the consequences
23 and fulfilled the requirements of the court's order before being required to do so. He explained that Dr. Robinson's failure to
24 report was because he did not know he needed to, and it was not an attempt to conceal.

25
26 Dr. Weisman asked if a reprimand or letter of guidance could be issued, to which Ms. Clark responded that a letter of
27 guidance could not be issued because probable cause had already been found. Ms. Clark informed the panel that it had the
28 option to send the matter to the board to review the mitigating circumstances, or to dismiss the Administrative Complaint.

29
30 Ms. Green interjected that if the case went before the full board, the department would likely recommend a Laws and Rules
31 course be required, which Dr. Robinson has already completed on his own as a result of this issue.

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33 **Board action:** Motion to dismiss the charge for failure to update the practitioner profile against Lonnie Brian Robinson,
34 DPM made by Dr. Block, seconded by Dr. Weisman.
35 Vote: 2 yeas / 0 opposed; motion carried.

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37 **Board action:** Motion to allow the charge for failure to report against Lonnie Brian Robinson, DPM to continue to the full
38 board made by Dr. Block, seconded by Dr. Weisman.
39 Vote: 2 yeas / 0 opposed; motion carried.

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43 **Reconsiderations concluded at 10:04 a.m.**

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46 The public portion of the meeting was adjourned at 10:04 a.m.