

1 The Florida Board of Podiatric Medicine held a meeting on Friday, February 3, 2017,  
2 commencing at 9:11 a.m. This meeting was held at the Best Western Gateway Grand,  
3 4200 NW 97<sup>th</sup> Boulevard, Gainesville, FL 32606, (352) 331-3336. Participants in this  
4 public meeting were made aware that these proceedings were being recorded and that an  
5 audio file of the meeting will be posted to the board's website.

6  
7 **AGENDA**  
8

9 **General Board Business started at 9:04 a.m.**

10  
11 **I. CALL TO ORDER (Roll Call):**

12 Board Chair, Chet Evans called the meeting to order at 9:11 a.m.

13  
14 Gail Curry called the roll.

15  
16 **MEMBERS PRESENT:**

17 Chet Evans, M.S., D.P.M., Chair  
18 Joseph Sindone, D.P.M., Vice-Chair  
19 Mark S. Block, D.P.M.  
20 Joseph Strickland, D.P.M.  
21 Robert Morris, Ph.D.  
22 James Pearce, BBA, MBA

23  
24 **STAFF MEMBERS PRESENT:**

25 Anthony B. Spivey, DBA, Executive Director  
26 Gail Curry, Program Operations Administrator  
27 Adrienne Rodgers, BSN, JD, Bureau Chief, MQA

28  
29 **BOARD COUNSEL:**

30 Mary Ellen Clark, Senior Assistant Attorney General  
31 Office of Attorney General

32  
33 **PROSECUTION COUNSEL:**

34 Judson Searcy, Attorney  
35 Division of Medical Quality Assurance

36  
37 **COURT REPORTER:**

38 American Court Reporting

39  
40 **AUDIO VISUAL:**

41 Vanguard Audio Visual

42  
43  
44 **MEMBERS ABSENT:**

45 Scott Koppel, DPM, Vice-Chair  
46 Dr. Koppel resigned yesterday.

1  
2 **Action:** Approval of the Agenda was made by Dr. Block. Second by Dr. Strickland.  
3 Vote: 6 yeas; 0 opposed, motion carried.

4  
5 **Section II started at 9:11 a.m.**

6  
7 **II. APPROVAL OF MINUTES:**

8  
9 a. September 9, 2016 - draft

10  
11 **Action:** Motion to approve the minutes as submitted was made by Mr. Pearce. Dr.  
12 Sindone seconded.  
13 Vote: 6 yeas; 0 opposed, motion carried.

14  
15 b. November 15, 2016 - draft

16  
17 **Action:** Motion to approve the minutes as submitted was made by Dr. Sindone. Second  
18 by Dr. Block.  
19 Vote: 6 yeas; 0 opposed, motion carried.

20  
21 **Section II ended at 9:13 a.m.**

22 **Section III started at 9:13 a.m.**

23  
24 **III. FINAL ORDER ACTION:**

25  
26 **a. Settlement Agreement**

27  
28 **i. Sheila Brooks**

29 Not present/not represented by counsel.

30  
31 Dr. Block is recused due to his participation on the Probable Cause Panel.

32  
33 Judson Searcy withdrew the settlement case due to Dr. Brooks not being present at the  
34 meeting. Her attendance was a requirement of the settlement agreement.

35  
36 Mr. Searcy gave the details of the case.

37  
38 **Discussion:** Ms. Clark advised the Board that if the settlement was accepted then her  
39 license would be suspended and she would be required to pay the \$1,000 fine. Then a  
40 disciplinary case would need to be opened for her failure to appear before the Board.

41  
42 **Action:** Dr. Sindone made a motion to hear the details of the case presented by Judson  
43 Searcy.

44  
45 **Action:** Motion to accept the Settlement Agreement was made by Dr. Sindone. Second  
46 by Mr. Pearce.

1  
2 **Discussion:** There was some discussion about her appearance at this meeting and the  
3 appearance being waived. Dr. Evans believes Dr. Brooks should have been at this meeting.  
4 Dr. Sindone agrees that this is not a waiver of her appearance.

5  
6 **Vote:** 5 yeas; 1 opposed, Dr. Morris, motion carried.

7  
8 **b. Voluntary Relinquishment**

9  
10 **i. Douglas Kahn**

11 Present/not represented by counsel.

12  
13 Dr. Kahn is before the Board for failure to report within the 30 day requirement of an arrest.

14  
15 Ms. Clark asked Dr. Kahn if he wanted to make the argument that the facts don't in fact  
16 constitute violate Chapter 461 or does he wish to be heard regarding the penalty?

17  
18 **Action:** Motion to approve the Finding of Facts and Conclusions of Law those set forth  
19 in the Administrative Complaint was made by Dr. Sindone. Second by Dr. Strickland.

20 **Vote:** 6 yeas; 0 opposed, motion carried.

21  
22 Disciplinary guidelines were for the first count was presented to the Board by Judson  
23 Searcy.

24  
25 Dr. Kahn addressed the Board.

26  
27 **Action:** Motion to revoke the license with no ability to reapply was made by Dr. Evans.  
28 Second by Dr. Strickland.

29  
30 Roll Call:

31 Dr. Strickland – Yes

32 Dr. Sindone – No

33 Dr. Morris – No

34 Mr. Pearce – No

35 Dr. Block – Recused

36 Dr. Evans – Yes

37  
38 **Vote:** 2 yeas; 3 opposed; motion does not pass.

39  
40 **Action:** Motion impose a reprimand, two-year probation, \$2,000 fine, costs of \$192.90,  
41 both to be paid within 90 days of the entry of the Final Order, 5 hours continuing education  
42 in the subject of prescription writing for narcotics and take the Florida Laws and Rules  
43 examination within two years of the entry of the Final Order was made by Dr. Sindone.  
44 Second by Dr. Morris.

45

1 **Discussion:** Dr. Strickland suggested monitoring. Dr. Sindone believes it is an educational  
2 issue. Dr. Sindone would suggest monitoring of prescription writing and record keeping  
3 every 6 months.

4  
5 **Action:** Dr. Sindone amended the original motion to include having Dr. Kahn obtain a  
6 DPM to monitor him and be present at the next board meeting to accept the responsibility  
7 of the monitoring.

8  
9 Ms. Clark summarized the motion. Proactive through indirect supervision during the  
10 probationary period with the Board delegating the monitor approved process to the chair  
11 with both the Respondent and the monitor appearing at the next meeting and the monitor  
12 to submit a report to the Board at least every six months during the probationary period  
13 with all costs of supervision to be paid by the Respondent.

14  
15 **Roll Call:**

16 Dr. Strickland – Yes

17 Dr. Sindone – Yes

18 Dr. Morris – Yes

19 Mr. Pearce – Yes

20 Dr. Block – Recused

21 Dr. Evans – No

22 Vote: 4 yeas; 1 opposed; Dr. Evans; motion passes.

23  
24 **Section III ended at 9:43 a.m.**

25 **Section IV started at 9:43 a.m. (Taken out of order)**

26  
27 **IV. PROSECUTION REPORT:**

28  
29 Mr. Searcy gave the Prosecution Report as follows.

30 Total Complaint Inventory as of February 2, 2017.

31 Complaints under review: 14

32 Complaints for probable cause: 2

33 Complaints where probable cause has been found: 6

34 Complaints submitted for final action: 4

35  
36 Mr. Searcy asked the board to allow Prosecution Services to continue prosecuting cases  
37 over 1 year old.

38  
39 **Action:** Dr. Sindone motioned to allow prosecuting cases over 1 year old. Second by Dr.  
40 Strickland.

41 Vote: 6 yeas /0 opposed, motion passes

42  
43 **Break 10:25**

44 **Meeting resumed at 10:37a.m.**

45

1 Dr. Evans introduced Karen Lambert from the Florida Podiatric Association and Chris  
2 Hanson and Jason Winn, were introduced.  
3 A brief discussion on the 2017 Association meeting held in Orlando.

4  
5 Dr. Martha Brown from PRN was also introduced. Dr. Brown announced that Dr. Alexis  
6 Polles will be the new director.

7  
8 **Section IV ended at 10:41 a.m.**

9 **Section V started at 9:41 a.m.**

10  
11 **V. APPLICANTS PRESENTED FOR BOARD REVIEW:**

12  
13 **a. Dr. Christopher Hyer**

14 Not present

15  
16 Dr. Hyer had Medical Malpractice claims on his record. The information was received in  
17 the board office on December 14, 2016. The application is before the Board for review.

18  
19 Dr. Hyer's application was tabled until later in the meeting while the board staff seeks the  
20 discipline history on his prior license number.

21  
22 **VI. PETITIONS FOR VARIANCE OR WAIVER**

23  
24 **a. Dr. Lillam Lemell**

25 Not present

26  
27 Petitioner requested a variance from the rules 64B18-11.001(2) and 64B18-11.002, FAC.

28  
29 **Action:** Motion to grant her Petition of Variance and Waiver as presented was made by  
30 Dr. Sindone. Second by Dr. Strickland.

31  
32  
33 **Roll Call:**

34 Dr. Strickland – Yes

35 Dr. Sindone – Yes

36 Dr. Morris – Yes

37 Mr. Pearce – Yes

38 Dr. Block – Yes

39 Dr. Evans – Yes

40  
41 Vote: 6 yeas /0 opposed; motion passes

42  
43 **Discussion:** Dr. Lemell's application could be approved contingent upon receiving a  
44 passing grade on Part III of the examination.

45  
46 **Section VI ended at 10:52 a.m.**

1 **Section VII started at 10:52 a.m.**

2  
3 **VII. RATIFICATIONS:**

4  
5 a. Licensure -

6  
7 i. Podiatric Physicians Dr. Hyer’s license, 3874, was issued in error and should have been  
8 pulled off the ratification list.

9  
10 Action: Motion to pull Dr. Hyer’s license number 3874 off the ratification list until later  
11 in the meeting and approve Podiatric Physicians license numbers 3866 – 3873 and 3875 -  
12 3879 was made by Dr. Sindone. Second by Dr. Morris.

13 Vote: 6 yeas /0 opposed; motion passes

14  
15 ii. Certified Podiatric X-Ray Assistants 1909 – 1911

16  
17 **Action:** Motion to approve Certified Podiatric X-Ray Assistants licenses number 1909 –  
18 1911 was made by Dr. Sindone. Second by Dr. Morris.

19 Vote: 6 yeas /0 opposed; motion passes

20  
21 a. Continuing Education

22  
23 i. Providers & Courses approved by CE Committee

24 ii. Providers & Courses approved by Board Staff

25  
26 **Action:** Motion to approve Continuing Education Providers as submitted was made by Dr.  
27 Sindone. Second by Dr. Strickland.

28 Vote: 6 yeas /0 opposed; motion passes

29  
30 **Section VII ended at 11:09 a.m.**

31 **Section VIII started at 11:09 a.m.**

32  
33 **VIII. CHAIR/VICE CHAIR REPORT:**

34 Dr. Evans - No report other than what was discussed today.

35  
36 **Section VIII ended at 11:10 a.m.**

37 **Section IX started at 11:10 a.m.**

38  
39 **IX. EXECUTIVE DIRECTOR’S REPORT:**

40  
41 **a. Letter to Honorable Rick Scott dated April 18, 2016**

42  
43 FYI

44  
45 **b. Letter to Honorable Rick Scott dated December 6, 2016**

46

1 FYI

2

3 **c. Anti-Trust Issue**

4

5 The board members discussed their concerns, which had been expressed in two letters  
6 presented by the board to Governor Scott in April and December 2016, regarding their  
7 potential personal liability exposure in the event of an anti-trust suit. The Bureau Chief  
8 for Health Care Practitioner Regulation, Ms. Adrienne Rodgers, explained the difference  
9 between the attorney general's presentation in 2016, which stated that there was no  
10 defense provided for board members in the event of an anti-trust suit through DFS Risk  
11 Management, and the Department's position that s. 456.008(2), Florida Statutes, requires  
12 the department to provide a legal defense in the event of any lawsuit, including an anti-  
13 trust suit. She advised, however, if damages were awarded in an anti-trust suit, personal  
14 liability exposure for a board member still exists. The board members were advised that  
15 their board counsel is well qualified to guide them in addressing potential anti-trust  
16 situations, helping them avoid matters that may involve an anti-trust suit, and that the  
17 OLA Anti-trust Division was also available for input and insight on more questionable  
18 issues. Ms. Rodgers concluded by saying that Governor Scott is aware of the situation  
19 and he is working diligently with the Legislature to address the concerns of the  
20 boards. Upon conclusion of the presentation Dr. Chet Evans, the board chair, resigned  
21 following the resignation of Dr. Scott Koppel.

22

23 **d. Rule Reduction**

24

25 The Governor has asked for another rule reduction exercise and the Board was asked to  
26 consider whether any rules were suitable for repeal.

27 **e. Dr. Lazar email**

28 Dr. Lazar wanted to attend the meeting by Skype. Dr. Spivey addressed the issue telling  
29 Dr. Lazar that Skype access would have to be provided to everyone. That is not possible  
30 so he must attend the meeting in person.

31

32 **f. 50-mile radius discussion**

33

34 This is general information that when you are attending a meeting that is within a 50-mile  
35 radius of your residence your hotel will not be paid. You are welcome to stay at the hotel  
36 but the cost must be paid by you. Board members will be able to get the state rate.

37

38 **Action:** Motion to accept the Executive Director's Report as submitted was made by Dr.  
39 Sindone. Second by Dr. Block.

40 Vote: 6 yeas /0 opposed; motion passes.

41

42 **Section IX ended at 11:50 a.m.**

43 **Section X started at 11:50 a.m.**

44

45 **X. BOARD COUNSEL'S REPORT:**

46

1 **a. Rules Report January 2017**

2  
3 Ms. Clark presented the rules report and explained the reasons for the further proposed  
4 revisions to Rule 64B18-14.002, FAC.

5  
6 **Action:** Motion to notice the change and approve the language in today’s agenda was made  
7 by Dr. Sindone. Second by Dr. Block.

8 Vote: 6 yeas /0 opposed; motion passes.

9  
10 Ms. Clark asked Statement of Estimated Regulatory Cost (SERC) Question. Will the  
11 proposed Rule amendment have an adverse impact on the small business or be likely to  
12 directly or indirectly increase regulatory cost to any industry including Government in  
13 excess of \$200,000 in the aggregate in Florida within 1 year of after the implementation  
14 of the rule?

15  
16 **Action taken:** Motion that the approved changes would not require a preparation of a  
17 Statement of Estimated Regulatory Cost was made by Dr. Sindone. Second by Dr. Block.

18 Vote: 6 yeas / 0 opposed; motion passes.

19  
20 **b. Quasi-Judicial and Quasi-Legislative**

21  
22 There is a power point in the agenda that speaks to the Quasi-Judicial and Quasi-  
23 Legislative responsibilities. This was presented at the Chair/Vice Chair meeting and is  
24 included in the agenda for you to reference.

25  
26 **Section X ended at 11:55 a.m.**  
27 **Section XI started at 11:55 a.m.**

28  
29 **XI. COMMITTEE REPORTS:**

30  
31 **a. Budget – Robert Morris, Ph.D.**

32 Nothing to report at this time.

33  
34 **b. Continuing Education – Scott Koppel, D.P.M.**

35 **Scott Koppel, D.P.M. is being replaced by Dr. Sindone.**

36 Nothing to report at this time.

37  
38 **c. Credentials – Scott Koppel, D.P.M**

39 **Scott Koppel, D.P.M. is being replaced by Dr. Sindone.**

40  
41 **The Board went back to Dr. Hyer’s application.**

42  
43 What is the discipline history issued in 2002? There is no discipline action on his old  
44 license. Dr. Hyer relinquished his license due to not renewing on time.



1 **Action:** Motion to bring off the table Dr. Hyer’s application to the State of Florida for  
2 licensing in Podiatric Medicine was made by Dr. Sindone. Second by Dr. Block.  
3 Vote: 6 yeas /0 opposed; motion passes.

4  
5 **Action:** Motion to accept the application of Dr. Hyer’s for application in Podiatric  
6 Medicine in the State of Florida was made by Dr. Sindone. Second by Dr. Block.  
7 Vote: 6 yeas /0 opposed; motion passes.

8  
9 **d. Disciplinary Compliance – Joseph Strickland, D.P.M**

10 Nothing to report at this time.

11  
12 **e. Examination – Chet Evans, D.P.M.**

13  
14 Nothing to report at this time.

15  
16 **f. Healthy Weight – Chet Evans, D.P.M.**

17  
18 There is continued work and the State and Board levels to support the initiative.

19  
20 **g. Legislative – Scott Koppel, D.P.M.**

21 **Scott Koppel, D.P.M. is being replaced by Dr. Strickland.**

22  
23 Information received from the FMPA and our Executive Director on legislative issues  
24 and discussion.

25  
26 **h. Probable Cause – Mark Block, D.P.M**

27  
28 We continue to chip away at the number of cases. He thanks prosecuting attorney for  
29 assisting in this effort.

30  
31 **i. Residency Programs – Joseph Sindone, D.P.M**

32  
33 All Residency Programs are in compliance.

34  
35 **j. Rules – Chet Evans, D.P.M.**

36  
37 Report was given earlier in the agenda. Please keep in mind any rules that can be  
38 reduced.

39  
40 **k. Unlicensed Activity – Robert Morris, Ph.D.**

41  
42 There is no unlicensed activity at this time.

43

1 **Action taken:** Motion to approve the Committee Report was made by Dr. Block. Second  
2 by Dr. Sindone.

3 Vote: 6 yeas / 0 opposed; motion carried

4  
5 **Section XI ended at 12:03 a.m.**

6 **Section XII started at 12:03 a.m.**

7  
8 **XII. OLD BUSINESS:**

9  
10 Nothing at this time.

11  
12 **Section XII ended at 12:04 a.m.**

13 **Section XIII started at 12:04 a.m.**

14  
15 **XIII. NEW BUSINESS:**

16  
17 Dr. Evans thanked the guests for attending today and for their input to the meeting.

18  
19 **Section XIII ended at 12:05 a.m.**

20 **Section IX started at 12:05 a.m.**

21  
22 **IX. NEXT MEETING DATE:**

23  
24 May 5, 2017 – Orlando

25 July 14 - Orlando

26 December 8 – Orlando

27  
28 **Section IX ended at 12:05 a.m.**

29 **Section X started at 12:14 a.m.**

30  
31 **X. 2018 PROPOSED MEETING DATES:**

32  
33 February 23, 2018

34 May 4, 2018

35 July 13, 2018

36 November 2, 2018

37  
38 Board Members will confirm or deny 2018 meeting dates within 2 weeks.

39  
40 Dr. Sindone asked about the length of the telephone conference calls. Ms. Clark  
41 explained that the telephone conference calls are considered a full Board Meeting not a  
42 mini meeting. Board members should plan accordingly.

43  
44 Dr. Chet Evans resigned, starting at the conclusion of today's meeting, due to the Anti-  
45 trust issues. He thanked the Board and the Board staff for their service.

46

1 **Section X ended at 12:15a.m.**  
2 **Section XI started at 12:15 a.m.**

3  
4 **XI. ADJOURNMENT:**

5  
6 **Action:** Motion to adjourn was made by Dr. Sindone. Second by Dr. Block.  
7 Vote: 6 yeas /0 opposed; motion passes.

8  
9 **Meeting was adjourned at 12:16**  
10