

1 **The Florida Board of Podiatric Medicine held a meeting on Friday, May 5, 2017,**
2 **commencing at 9:01a.m. This meeting was held at the Springhill Suites, 5828 Hazeltine**
3 **National Drive, Orlando, Florida 32822, (407) 816-5533. Participants in this public meeting**
4 **were made aware that these proceedings were being recorded and that an audio file of the meeting**
5 **will be posted to the board’s website.**

6
7 **AGENDA**

8 **General Board Business started at 9:01 a.m.**

9

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

11

12 Joseph Sindone, D.P.M., Vice-Chair
13 Mark S. Block, D.P.M.
14 Joseph Strickland, D.P.M.
15 Robert Morris, Ph.D.

16

17 **MEMBERS PRESENT:**

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

23 **STAFF MEMBERS PRESENT:**

24 Gail Curry, Program Operations Administrator
25 Brandi May, Regulatory Supervisor

26

27 **BOARD COUNSEL:**

28 Mary Ellen Clark, Senior Assistant Attorney General
29 Office of the Attorney General

30

31 **PROSECUTION COUNSEL:**

32 Judson Searcy, Assistant General Counsel
33 Louise St. Laurent, Deputy General Counsel

34

35 **COURT REPORTER:**

36 American Court Reporting
37 (407) 896-1813

38

39 **AUDIO VISUAL:**

40 Vanguard Audio Visual
41 (941) 448-3183

42

43

44

45 **II. ELECTION:**

46 **Action:** Motion to elect Dr. Sindone as chair was made by Dr. Block. Seconded by Dr. Morris.

47

48 Vote: 2 yeas; 0 opposed, motion carried.

49

50 **Action:** Motion to elect Dr. Strickland as vice-chair was made by Dr. Block. Seconded by Dr.
51 Sindone.

52

53 Vote: 2 yeas; 0 opposed, motion carried.

54

55 **III. APPROVAL OF MINUTES**

56 **a. February 3, 2017**

57 Minutes tabled for review until the July meeting.

58

59 **Action:** Motion to table minutes was made by Dr. Sindone. Seconded by Dr. Block.

60

61 Vote: 2 yeas; 0 opposed, motion carried.

62

63 **IV. PETITIONS:**

64 **a. Declaratory Statement**

65 **i. Kevin D. Berkowitz (deceased)**

66 **Discussion:** Dr. Berkowitz's estate is being represented by legal counsel. The physician passed
67 away on July 20, 2015. The medical records of the former patients are currently being held in
68 storage. The estate's legal counsel is seeking guidance on how to dispose of these records. The
69 board counsel discussed Rule 64B18-15.001(2) and the surrounding subsections and how they
70 apply in this particular situation. The board counsel suggested that this rule needed further
71 discussing for clarification as the date being considered by the board is the date of the
72 publication and not the date of the physician's death. The board counsel advised the board
73 64B18-15.001(3) could have averted this proceeding.

74 **Action:** Motion to take action to establish the effective date of death to coincide with the
75 requirements for publications and go for 22 months from that date of publication in order to be
76 consistent with the existing rules and regulations that apply made by Dr. Morris. Seconded by
77 Dr. Block.

78

79 Vote: 3 yeas; 0 opposed, motion carried.

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81

82

83

84 **b. Waiver**

85

86 **i. Dia D. McCaughan, D.P.M.**

87 **Discussion:** Dr. McCaughan filed a waiver for Rule 64B18-17.005. Dr. McCaughan is not
88 present nor is represented by counsel. Dr. McCaughan did not appear at a live meeting as
89 required for licensure. Dr. McCaughan had previously made arrangements to come to Florida for
90 a live podiatry meeting but it was changed to a teleconference call; it was too late to change her
91 travel plans. The board decided the licensee must provide a continuing education venue on laws
92 and rules in her locale.

93 **Action:** Motion to grant the waiver made by Dr. Block. Seconded by Dr. Sindone.

94

95 Vote: 4 yeas; 0 opposed, motion carried.

96

97 **IV. CORRESPONDENCE REVIEW**

98

99 **a. Luis E. Marin, D.P.M.**

100

101 **Discussion:** Dr. Marin is present and is not represented by counsel. This matter has been placed
102 on the agenda as correspondence only because the declaratory statement was not legally binding.
103 Dr. Marin is seeking guidance on the requirements of setting up a level II surgical facility.
104 Currently, there are already existing regulations promulgated by the board of medicine that
105 regulate office surgical procedures. There will be no vote on this as there is no jurisdiction by the
106 board in this matter.

107 **Action:** Licensee was advised by the board to update his address with the department.

108 Dr. Strickland appeared late due to car wreck on I-4.

109

110 **V. APPLICANTS PRESENTED FOR BOARD REVIEW**

111

112 **a. Rebecca Deterding**

113

114 **Discussion:** Applicant answered yes on a health history question.

115 **Action:** Motion to approve application made by Dr. Block. Seconded by Dr. Morris.

116

117 Vote: 4 yeas; 0 opposed, motion carried.

118

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121

122 **VI. FINAL ORDER ACTION:**

123

124 **a. Settlement Agreement**

125

126 **i. David Loiselle**

127 **Discussion:** Dr. Loiselle was not present but was represented by counsel. Mr. Searcy cites case
128 number 2016-19197; Dr. Block is recused. Respondent failed to keep accurate medical records
129 justifying the course of treatment. Respondent was evaluated and was determined to be unsafe to
130 practice podiatric medicine. Dr. Polles from PRN appeared on Dr. Loiselle’s behalf. Dr. Loiselle
131 will have to petition to return to practice when that time occurs. Prosecution reiterates the
132 respondent is only under a restriction order and not a full suspension order. Prosecution
133 requested the suspension term begin on the same day as the final order.

134 **Action:** Motion to accept the settlement agreement by Dr. Strickland. Seconded by Dr. Morris.

135

136 Vote: 4 yeas; 0 opposed, motion carried.

137

138 **b. Voluntary Relinquishment**

139

140 **i. Douglas Kahn**

141 **Discussion:** Respondent was present but was not represented by legal counsel. The case numbers
142 are 2015-29429 and 2016-10461. Dr. Kahn is unable to renew his license for approximately 12
143 years. The 10 year bar starts at the end of his criminal sentence. Dr. Kahn’s license is currently
144 delinquent. Dr. Kahn’s license will go null & void on April 1, 2018. The board will accept the
145 voluntary relinquishment if the respondent agrees never to reapply in the state. The respondent
146 stated he fully intends to reapply to the state after his time served. Prosecution stated the
147 respondent cannot renew his license due to being statutorily prohibited due to 456.0635(3)(a).

148 **Action:** Motion to accept the voluntary relinquishment as it is written made by Dr. Strickland.
149 Second by Dr. Block.

150

151 Vote: 4 yeas; 0 opposed, motion carried.

152

153 **V. RATIFICATIONS:**

154

155 **a. Licensure –**

156

157 **i. Podiatric Physicians**

158 **Action:** Motion to accept the licensure applications, license numbers 3886 to 3910 made by Dr.
159 Sindone. Second by Dr. Block.

160 Vote: 4 yeas; 0 opposed, motion carried.

161

162 **ii. Certified Podiatric X-Ray Assistants**

163 **Action:** Motion to accept the licensure applications, numbers 1913 thru 1937 made by Dr.
164 Strickland. Second by Dr. Block.

165 Vote: 4 yeas; 0 opposed, motion carried.

166

167 **b. Continuing Education**

168 **i. Providers & Courses approved by CE Chair**

169 Dr. Sindone approved one meeting in wound care for CE Broker.

170

171 **VI. CERTIFIED PODIATRIC X-RAY ASSISTANT APPLICATION**

172 **a. 64B18-24.001**

173 Ms. Curry discussed the background screening unit within the department. The fingerprinting
174 was left out inadvertently of the original application that is currently available when it was
175 updated. This rule needs to be updated.

176 **Action:** Motion to approve the application made by Dr. Morris. Seconded by Dr. Block.

177 Vote: 4 yeas; 0 opposed, motion carried.

178

179 **Action:** Motion to notice Rule 64B18-24.001 and approve the text on the application made by
180 Dr. Strickland. Seconded by Dr. Block.

181 Vote: 4 yeas; 0 opposed, motion carried.

182

183 Will the change in the rule have an adverse impact on small business or directly or indirectly
184 increase the regulatory costs in excess of \$200,000 in the aggregate in Florida within 1-year or be
185 likely to increase regulatory costs including any transactional costs in excess of one million in the
186 aggregate within 5 years.

187

188 The board counsel believes it will have an adverse economic impact however, the requirement is
189 set by the statute. The executive director of the board is responsible for submitting the statement
190 of annual regulatory costs. This issue will be taken up at the meeting in July 2017.

191

192 **Action:** Motion to move that the board staff proceed with the statement of annual regulatory
193 costs made by Dr. Strickland. Second by Dr. Block.

194

195 Vote: 4 yeas; 0 opposed, motion carried.

196

197

198

199 **VII. PROSECUTION REPORT:**

200 Mr. Searcy presented the following information:

201 There are currently 20 cases in the inventory.

202 There is currently only one case that is over 1 year and older.

203 Mr. Searcy said in August of 2015, there was a backlog of 20 out of 24 cases being 1 year and
204 older. Mr. Searcy stated the decline in the number of cases 1 year and older has been steady.

205 **Action:** Motion to accept to continue the prosecution of the board's 1 year and older case made
206 by Dr. Sindone. Seconded by Dr. Morris.

207 Vote: 4 yeas; 0 opposed, motion carried.

208

209 **VIII. CHAIR/VICE CHAIR REPORT:**

210

211 The current vacancies on the Board of Podiatry were discussed.

212

213 **XI. EXECUTIVE DIRECTOR'S REPORT:**

214

215 The Chair/Vice-Chair meeting will be held in Tallahassee on September 18, 2017.

216 The Healthy Weight Initiative contains materials that are available to the public or anyone who is
217 interested.

218 The financial reports in the committee meetings will be back on any future agendas.

219

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

221

222 **a. Rules Report March 2017**

223 **b. Rules Report April 2017**

224

225 The rulemaking to update the board's disciplinary guidelines did become effective in April 2017.

226

227 **XI. COMMITTEE REPORTS:**

228 **a. Budget – Robert Morris, Ph.D.**

229 Nothing to report.

230 Dr. Sindone asked for the financial statements to be distributed to the board members to see how
231 financially the board stands.

232

233

234 **b. Continuing Education – Joseph Sindone, D.P.M.**

235 Dr. Sindone approved one course for wound care.

236

237 **c. Credentials – Joseph Sindone, D.P.M.**

238

239 Nothing to report.

240

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

242

243 No report.

244 **e. Examination – Joseph Sindone, D.P.M.**

245 No report.

246 **f. Healthy Weight –**

247

248 Given earlier in the meeting by Ms. Curry.

249

250 **g. Legislative – Joseph Sindone, D.P.M.**

251

252 Dr. Sindone appointed Dr. Strickland to be Chair of the legislative committee. Dr. Strickland
253 talked about the anti-trust issue. The bill did not pass this year.

254

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

256 Dr. Block thanked Mary Ellen Clark for her service as board counsel. Dr. Block also thanked
257 Prosecution Services.

258

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

260 No report.

261

262 **j. Rules –**

263 Already covered under the board counsel's report.

264

265 **k. Unlicensed Activity – Robert Morris, Ph.D.**

266 Nothing to report.

267 Dr. Sindone would like an unlicensed activity report at the next meeting. Prosecution Services
268 agreed to do so.

269

270 **XII. OLD BUSINESS:**

271 None.

272 Jason Winn introduced himself from the Florida Podiatric Medical Association. Mr. Winn had
273 nothing to report.

274

275 **XIII. NEW BUSINESS:**

276 Dr. Block discussed the need for Directors and Officers liability insurance for board members. It
277 is unavailable at this time unless personally purchased.

278 Dr. Block discussed the issue of reducing the need for the continuing education course medical
279 errors for licensure. Ms. Clark cited the statute 456.013(7) which does not affect the practice act.

280 **XIV. NEXT MEETING DATE:**

281

282 a. July 14, 2017

283

284 **XV. ADJOURNMENT:**

285 11:54 a.m.