

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.**

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7 **AGENDA**

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

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

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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.

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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.

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23 **STAFF MEMBERS PRESENT:**

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

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27 **BOARD COUNSEL:**

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

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31 **PROSECUTION COUNSEL:**

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

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35 **COURT REPORTER:**

36 American Court Reporting
37 (407) 896-1813

38

39 **AUDIO VISUAL:**

40 Vanguard Audio Visual
41 (941) 448-3183

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45 **II. ELECTION:**

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

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

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

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

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55 **III. APPROVAL OF MINUTES**

56 **a. February 3, 2017**

57 Minutes tabled for review until the July meeting.

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

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

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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), F.A.C., and the surrounding subsections and
70 how they apply in this particular situation. The board counsel suggested that this rule needed
71 further 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 Rule
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.

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

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84 **b. Waiver**

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

87 **Discussion:** Dr. McCaughan filed a waiver for Rule 64B18-17.005, F.A.C. Dr. McCaughan is
88 not 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 attend 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.

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

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97 **IV. CORRESPONDENCE REVIEW**

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

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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 to the meeting due to car wreck on I-4.

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

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112 **a. Rebecca Deterding**

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

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

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

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122 **VI. FINAL ORDER ACTION:**

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124 **a. Settlement Agreement**

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126 **i. David Loisel**

127 **Discussion:** Dr. Loisel 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. Loisel's behalf. Dr. Loisel
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.

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

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138 **b. Voluntary Relinquishment**

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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 F.S.

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

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

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154 **V. RATIFICATIONS:**

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156 **a. Licensure –**

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158 **i. Podiatric Physicians**

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

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

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ii. Certified Podiatric X-Ray Assistants

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

Vote: 4 yeas; 0 opposed, motion carried.

b. Continuing Education

i. Providers & Courses approved by CE Chair

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

VI. CERTIFIED PODIATRIC X-RAY ASSISTANT APPLICATION

a. 64B18-24.001

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

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

Vote: 4 yeas; 0 opposed, motion carried.

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

Vote: 4 yeas; 0 opposed, motion carried.

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

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

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

Vote: 4 yeas; 0 opposed, motion carried.

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VII. PROSECUTION REPORT:

Mr. Searcy presented the following information:
There are currently 20 cases in the inventory.
There is currently only one case that is over 1 year and older.
Mr. Searcy said in August of 2015, there was a backlog of 20 out of 24 cases being 1 year and older. Mr. Searcy stated the decline in the number of cases 1 year and older has been steady.
Action: Motion to accept to continue the prosecution of the board’s 1 year and older case made by Dr. Sindone. Seconded by Dr. Morris.
Vote: 4 yeas; 0 opposed, motion carried.

VIII. CHAIR/VICE CHAIR REPORT:

The current vacancies on the Board of Podiatry were discussed.

XI. EXECUTIVE DIRECTOR’S REPORT:

The Chair/Vice-Chair meeting will be held in Tallahassee on September 18, 2017.
The Healthy Weight Initiative contains materials that are available to the public or anyone who is interested.
The financial reports in the committee meetings will be back on any future agendas.

X. BOARD COUNSEL’S REPORT:

- a. Rules Report March 2017**
- b. Rules Report April 2017**

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

XI. COMMITTEE REPORTS:

- a. Budget – Robert Morris, Ph.D.**

Nothing to report.
Dr. Sindone asked for the financial statements to be distributed to the board members to see how financially the board stands.

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

236 Dr. Sindone approved one course for wound care.

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

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240 Nothing to report.

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

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244 No report.

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

246 No report.

247 **f. Healthy Weight –**

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249 Given earlier in the meeting by Ms. Curry.

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

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

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

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

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

261 No report.

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263 **j. Rules –**

264 Already covered under the board counsel's report.

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

267 Nothing to report.

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

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271 **XII. OLD BUSINESS:**

272 None.

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

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276 **XIII. NEW BUSINESS:**

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

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

281 **XIV. NEXT MEETING DATE:**

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283 a. July 14, 2017

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285 **XV. ADJOURNMENT:**

286 11:54 a.m.