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FLORIDA | Board of Podiatric Medicine

MEETING MINUTES

October 23, 2015

B Resort

1905 Hotel Plaza Boulevard
Lake Buena Vista, FL 32830



Chet Evans, DPM
Chair

Scott Koppel, DPM
Vice-Chair

Anthony B. Spivey, DBA
Executive Director

1 **General Board Business started: 9:00 a.m.**

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

4
5 **MEMBERS PRESENT:**

6 Chet Evans, DPM, Chair
7 Scott Koppel, DPM, Vice-Chair
8 Mark S. Block, DPM
9 Joseph Strickland, DPM
10 Joseph Sindone, DPM
11 Robert Morris, Ph.D.
12 James Pearce, BBA, MBA

5 **STAFF PRESENT:**

6 Anthony B. Spivey, DBA, Executive Director
7 Joseph Lesho, Program Operations Administrator

13
14 **BOARD COUNSEL:**

15 Mary Ellen Clark, Assistant Attorney General
16 Office of Attorney General

17
18 **PROSECUTION COUNSEL:**

19 Judson Searcy, Assistant General Counsel

20
21 **COURT REPORTER:**

22 American Court Reporting
23 Cindy Green
24 (407) 896-1813

25
26 *Please note the minutes reflect the actual order agenda items were discussed and may differ from the agenda outline. AUDIO from this*
27 *meeting can be found online: <http://floridaspodiatricmedicine.gov/meeting-information/past-meetings>*

28
29 **Section II began: 9:01 a.m.**

30
31 **II. APPROVAL OF MINUTES – August 14, 2015**

32 The minutes of the August 14, 2015 Full Board Meeting were reviewed.

33
34 **Action:** Motion to accept the minutes was made by Dr. Koppel. Seconded by Dr. Sindone.

35
36 Vote: 7 yeas / 0 opposed; motion carried

37
38 **Section II concluded: 9:02 a.m.**

39 **Section III began: 9:02 a.m.**

40
41 **III. DISCIPLINE:**

42
43 **a. Settlement Agreement –**

44
45 **i. James F. Pruchniewski, D.P.M. – Case No. 2014-03981**

46 Dr. Pruchniewski was present and was represented by counsel, Joe Bodiford Esq.

47
48 Dr. Block was recused due to participation on the Probable Cause Panel.

49
50 A one count Administrative Complaint was filed on September 8, 2015 alleging a violation of s.
51 456.072(1)(II), F.S., for entering a plea of guilty to any misdemeanor or felony, regardless of adjudication,
52 a crime in any jurisdiction which relates to health care fraud; stemming from a plea of guilty to one count
53 of health care fraud in violation of 18 U.S.C. § 1347.

54
55 Mr. Searcy advised the board of the department's recommended discipline:

- 56
57
 - Required appearance before the board for the hearing of the Settlement Agreement.

- Fine in the amount of \$5000.00, payable within one year of the filing of the Final Order.
- Costs not to exceed \$2000.00, payable within one year of the filing of the Final Order.
- Probation for a period of one year under the Indirect Supervision of a board-approved monitor.

Discussion:

Mr. Bodiford told the board that he and Dr. Pruchniewski agreed that the settlement was fair and reasonable. He also pointed out that the violation was not a standard of care issue; rather, it was due to improper insurance billing codes.

Ms. Clark read into the record the terms of supervision during the probationary period as outlined in the Settlement Agreement, and asked prosecution to verify that the total costs amounted to \$830.36. Mr. Searcy confirmed that the total costs amount stated was correct. The board agreed to the terms of supervision and to the costs.

Dr. Evans asked Dr. Pruchniewski if he had identified a monitor. Dr. Pruchniewski stated that a monitor had not yet been identified. Dr. Evans instructed Dr. Pruchniewski to provide the board office with the required information about the proposed monitor as soon as possible so that he may review the information and grant temporary approval if agreed upon. He specifically requested that Dr. Pruchniewski provide him with a CV of the proposed monitor.

Action: Motion to approve the Settlement Agreement was made by Dr. Sindone. Seconded by Dr. Morris.
Vote: 7 yeas / 0 opposed; motion carried

Dr. Evans asked if Dr. Pruchniewski would have issues with renewing his license due to the federal conviction related to fraud. After discussion, it was determined that the federal statute violated would not necessarily lead to a denial of renewal, pursuant to s. 456.0635, F.S.

Section III concluded: 9:14 a.m.

Section IV began: 9:14 a.m.

IV. RATIFICATIONS:

a. Licensure –

i. Podiatric Physicians

Action: Motion to ratify the issuance of Podiatric Physician licenses 3743 through 3754 was made by Mr. Pearce. Seconded by Dr. Morris.
Vote: 7 yeas / 0 opposed; motion carried

ii. Podiatric Residents

Action: Motion to ratify the issuance of Podiatric Resident licenses 443 through 453 was made by Dr. Morris. Seconded by Dr. Strickland.
Vote: 7 yeas / 0 opposed; motion carried

iii. Certified Podiatric X-Ray Assistants

Action: Motion to ratify the issuance of Certified Podiatric X-Ray Assistant license 1786 was made by Dr. Sindone. Seconded by Dr. Morris.
Vote: 7 yeas / 0 opposed; motion carried

b. Continuing Education –

i. Providers and Courses Approved by Board Staff

Action: Motion to ratify the providers and courses approved by Board Staff was made by Dr. Koppel. Seconded by Dr. Sindone.

1 Vote: 7 yeas / 0 opposed; motion carried

2
3 **Section IV concluded: 9:16 a.m.**

4 **Section V began: 9:16 a.m.**

5
6 **V. PROSECUTION REPORT:**

7 Mr. Searcy provided the board with an update of pending cases as of October 22, 2015. He explained that five cases were
8 dismissed during the most recent meeting of the Probable Cause Panel, but that five new cases had since been created. He
9 then provided an overview of the cases that were more than one year old.

10
11 Ms. Clark asked if prosecution could provide a report detailing cases that are in the process of being investigated. Mr. Searcy
12 said he would do research to see if that would be possible.

13
14 **Action:** Motion to allow the continued prosecution of cases more than one year old was made by Dr. Koppel. Seconded by
15 Dr. Sindone.

16 Vote: 7 yeas / 0 opposed; motion carried

17
18 **Section VI concluded: 9:20 a.m.**

19 **Section VII began: 9:20 a.m.**

20
21 **VI. CHAIR/VICE-CHAIR REPORT:**

22
23 **a. Future Agenda Items:**

24 Dr. Evans that the only items he wished to discuss were related to Healthiest Weight, and that he would discuss the
25 items during his committee report.

26
27 **Section VI concluded: 9:21 a.m.**

28 **Section VII began: 9:21 a.m.**

29
30 **VII. EXECUTIVE DIRECTOR'S REPORT:**

31
32 **a. MQA SWOT Analysis:**

33 Dr. Spivey provided an overview of the SWOT Analysis presentation that was originally presented at the September
34 24, 2015 Chair/Vice Chair Meeting. He explained that one of the main weaknesses is the time it takes to get new
35 board members appointed one a member's term has expired. He then explained that those interested in becoming a
36 board member should be referred to the Appointments Office under the Office of the Governor.

37
38 Dr. Evans said that he appreciates the department's annual meetings of the board chairs and vice chairs, stating that
39 they are extremely valuable. He then encouraged the other board members to review the SWOT Analysis
40 presentation.

41
42 **Action:** Motion to accept the Executive Director's report was made by Dr. Morris. Seconded by Dr. Koppel.

43 Vote: 7 yeas / 0 opposed; motion carried

44
45 **Section VII concluded: 9:26 a.m.**

46 **Section VIII began: 9:26 a.m.**

47
48 **VIII. BOARD COUNSEL'S REPORT:**

49
50 **a. Rules Status – October:**

51 Ms. Clark explained that the four rules that the board voted to repeal during the August 14, 2015 meeting were
52 effectively repealed on October 22, 2015.

53
54 **b. Annual Regulatory Plan:**

55 Ms. Clark presented the final, signed version of the 2015-2016 Annual Regulatory Plan.

56
57 **c. Revisions to Rule 64B18-11.002, F.A.C.:**

1 Ms. Clark presented a proposed draft of the rule, changing “PMLexis Examination” to “Part III” of the National
2 Board of Podiatric Medical Examiners examination. She also pointed out to the board that a petition from a licensure
3 applicant has been submitted to waive the requirements of Parts I and II of the examination, which the board would
4 be likely to see at a future meeting.
5

6 After discussion, the board agreed to amend the language to require than an applicant has “taken and passed all parts
7 of the National Board of Podiatric Medical Examiners examination” to strengthen and clarify the language, and to
8 ensure that the rule would still apply if the National Board of Podiatric Medical Examiners were to make any
9 changes to their examination.
10

11 **Action:** Motion to notice Rule 64B18-11.002, F.A.C. for development and approve the language as amended was
12 made by Dr. Block. Seconded by Dr. Strickland.

13 Vote: 7 yeas / 0 opposed; motion carried
14

15 **Action:** Motion to find that the proposed rule amendments will not have an adverse impact on small business nor be
16 likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within 1
17 year, nor be likely to increase regulatory costs, including any transactional costs, in excess of \$ 1 million in the
18 aggregate within 5 years after the implementation of the rule was made by Dr. Sindone. Seconded by Dr. Block.

19 Vote: 7 yeas / 0 opposed; motion carried
20

21 Ms. Clark then recommended that the board discuss holding a telephonic meeting before the end of 2015 to discuss
22 Rules 64B18-14.002 and 64B18-14.010, F.A.C. The board agreed to discuss a date and time for such a meeting later
23 on in the agenda.
24

25 **d. Anti-Trust Dental North Carolina Board Presentation:**

26 Ms. Clark provided an overview of the North Carolina State Board of Dental Examiners v. Federal Trade
27 Commission (FTC) presentation that was originally presented at the September 24, 2015 Chair/Vice Chair meeting.
28 She stated that since that meeting, the FTC has issued guidance on “active supervision,” but emphasized that
29 guidance is not the same thing as law. She explained to the board that no Department of Health laws seem to be of
30 immediate concern, but that the Attorney General may recommend restructuring the composition of Florida’s
31 regulatory boards to increase the number of consumers and reduce the number of active market participants
32 (licensees).
33

34 **e. Discussion – Rule Repeal**

35 Ms. Clark presented a list of rules that the Office of Fiscal Accountability and Regulatory Reform (OFARR) would
36 like the board to repeal, or explain why they should not be repealed.
37

38 **i. 64B18-13.007 Procedure for Renewal of Inactive Status of Licensure**

39 **ii. 64B18-14.012 Address of Record**

40 **iii. 64B18-17.003 Continuing Education Programs Not Requiring Pre-Approval from the Board**

41 **iv. 64B18-17.004 Continuing Education for Faculty and Seminar Speakers**
42

43 The board agreed to not repeal any of the rules because they prefer to keep existing processes in place, and because
44 they feel they provide necessary guidance to licensees.
45

46 **Section VIII concluded: 10:08 a.m.**

47 **Section IX began: 10:08 a.m.**
48

49 **IX. COMMITTEE REPORTS:**

50 **a. Budget – Robert Morris, Ph.D.:**

51 **i. Budget Report**

52 **ii. Revenue Report**
53

1
2 Dr. Morris stated that his source within department said that all essential operating costs are being met according to
3 the budget.
4

5 **b. Continuing Education – Scott Koppel, D.P.M.:** Nothing to report.
6

7 **c. Credentials – Scott Koppel, D.P.M.:** Nothing to report.
8

9 **d. Disciplinary Compliance – Joseph Strickland, D.P.M.:** Nothing to report.
10

11 **e. Examination – Chet Evans, D.P.M.:** Nothing to report.
12

13 **f. Healthy Weight – Chet Evans, D.P.M.:**

14 **i. Healthiest Weight Liaison Strategy Development:**

15 Dr. Evans presented the Healthiest Weight Liaison Strategy Development document that was included in
16 the board agenda materials.
17

18 **g. Legislative – Scott Koppel, D.P.M.:** Nothing to report.
19

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

21 **i. Stats:** Nothing to report.
22

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

24 **i. Podiatric Resident Registration Letter:**

25 Dr. Sindone informed the board that all residency programs and residents are in compliance.
26

27 **j. Rules – Chet Evans, D.P.M.:**

28 Dr. Evans had nothing else to add to the board counsel's rules discussion.
29

30 **k. Unlicensed Activity – Robert Morris, Ph.D.:**

31 Dr. Morris informed the board that he has been receiving reports from the department's Unlicensed Activity unit,
32 and that there has only been one reported case of unlicensed activity related to podiatric medicine in 2015.
33

34 **Action:** Motion to accept the committee reports was made by Dr. Sindone. Seconded by Dr. Block.
35

36 **Vote:** 7 yeas / 0 opposed; motion carried
37

38 **Section IX concluded: 10:15 a.m.**

39 **Section X began: 10:15 a.m.**
40

41 **X. OLD BUSINESS:**
42

43 **Section X concluded: 10:15 a.m.**

44 **Section XI began: 10:15 a.m.**
45

46 **XI. NEW BUSINESS:**

47 Jason Winn, Esq., representing the Florida Podiatric Medical Association (FPMA), addressed the board to provide updates
48 on association business. He explained that a third-party management company to may possibly take over the association;
49 however, Dinah Cox remains the interim Executive Director for the time being. Dr. Evans asked if the association's physical
50 location will change. Mr. Winn stated that the headquarters may possibly change, but that he hopes there will still be a
51 presence in Tallahassee.
52

53 Dr. Sindone then brought up an issue with pharmacy compound medications containing dimethyl sulfoxide (DMSO). He
54 referenced s. 461.0134, F.S., and wondered whether podiatric physicians were still complying with provisions of the statute.
55
56
57

1 After discussion, the board instructed board staff and FMPA to draft an article to be placed on the board website and
2 distributed through the FPMA newsletter to notify physicians that the statute is still in effect, and must be followed.
3

4 Ms. Clark suggested scheduling the aforementioned telephone conference call to discuss Rules 64B18-14.002 and 64B18-
5 14.010, F.A.C. on December 9, 2015 at 12:00 p.m. The board agreed to that date and time. Dr. Koppel agreed to assist Ms.
6 Clark with drafting proposed language.
7

8 **Section XI concluded: 10:30 a.m.**

9 **Section XII began: 10:30 a.m.**

10
11 **XII. 2016 CHAIR/VICE CHAIR ELECTIONS:**

12 Dr. Sindone made a motion to keep Dr. Evans in the role of chair, and Dr. Koppel in the role of vice chair. Dr. Koppel
13 declined the nomination for vice chair and nominated Dr. Sindone. Dr. Sindone accepted.
14

15 **Action:** Motion to elect Dr. Evans as chair and Dr. Sindone as vice chair for 2016 was made by Dr. Sindone. Seconded by
16 Dr. Strickland.

17 **Vote:** 7 yeas / 0 opposed; motion carried
18

19 **Section XII concluded: 10:32 a.m.**

20 **Section XIII began: 10:32 a.m.**

21
22 **XIII. NEXT MEETING – January 22, 2016, Orlando**
23

24 **Section XIII concluded: 10:33 a.m.**

25 **Section XIV began: 10:33 a.m.**

26
27 **XIV. ADJOURNMENT**
28

29 **Action:** Motion to adjourn the meeting was made by Dr. Sindone. Seconded by Dr. Morris.

30 **Vote:** 7 yeas / 0 opposed; motion carried
31

32 **The meeting was adjourned at 10:33 a.m.**