

FLORIDA BOARD OF PODIATRIC MEDICINE GENERAL BOARD MEETING

DRAFT MINUTES

March 18, 2021 at 5:00 P.M. EST



Joseph Strickland, DPM, Chair

Janet E. Hartman, Executive Director

MEETING CALLED TO ORDER @ 5:00 P.M.

Roll Call Conducted by Janet Hartman

BOARD MEMBERS PRESENT

Joseph Strickland, DPM - Chair
Mark S. Block, DPM – Vice Chair
Soorena Sadri, DPM
Robert Morris, PhD

BOARD STAFF PRESENT

Janet Hartman, Executive Director
Eric Pottschmidt, Program Operations Administrator

BOARD COUNSEL PRESENT

Christopher Dierlam, Assistant Attorney General

DEPARTMENT OF HEALTH COUNSEL PRESENT

Judson Searcy, Assistant General Counsel

DISCIPLINE

Augustine Anthony Bollo, D.P.M., DOH Case # 2012-08174; Dr. Block was recused.

Dr. Augustine Anthony Bollo, Allen R. Grossman, and Gary Abriola were present.

Judson Searcy introduced the case.

The Department asked in their first motion that the Board make a finding that the respondent was properly served and had requested an informal hearing.

Motion: by Dr. Morris to find that the respondent was properly served and had requested an informal hearing.

Second: by Dr. Sadri

Vote: Passed Unanimously

The Department asked to accept the investigative report into evidence. **(TS – 00:11:45 Minutes)**

Mr. Grossman made an objection and stated the investigative report is a hearsay document that can't be used to substantiate any findings or fact in this case.

Mr. Searcy responded that the investigative report, referenced in colloquial terms, includes the case file and court documents.

Mr. Grossman stated that they are not contesting that there is a conviction on the record as indicated in the administrative complaint, and most of their questions will be focused on the questions of law, and potential mitigation if the Board determines a penalty is needed.

Mr. Dierlam responded that a supplemental investigative report is included in the case files that contains certified copies of the criminal conviction, that is not considered as hearsay. **(TS – 00:13:58 Minutes)**

Mr. Dierlam asked Mr. Grossman to clarify which documents were specifically being objected to.

Mr. Grossman stated that his objection was anything that was not a court record.

Mr. Searcy confirmed that the criminal court documents form the basis for the administrative complaint.

Motion: by Dr. Morris to accept the relevant materials as discussed into evidence with the omission of anything that is not within the criminal court documents.

Second: by Dr. Sadri

Vote: Passed Unanimously

The Department asked to adopt the findings of fact as set forth in the administrative complaint. **(TS – 00:19:15 Minutes)**

Mr. Grossman stated that he had no objection to adopting the findings of fact as set forth in the administrative complaint.

Motion: by Dr. Sadri to adopt the findings of fact as set forth in the administrative complaint.

Second: by Dr. Morris

Vote: Passed Unanimously

Allen R. Grossman made presentation to the Board. **(TS – 00:20:30 Minutes).**

In part of his presentation, he discussed the subject matter of “related” versus “directly related” as it pertains to Dr. Bollo’s practice of podiatry, and his ability to practice podiatry.

Dr. Bollo made his presentation to the Board. **(TS – 00:36:30 Minutes).**

Mr. Dierlam reiterated to the Board that the issue at hand was to determine whether or not the facts outlined in the administrative complaint constitute violation of the statute as alleged.

Mr. Searcy responded to Mr. Grossmans argument addressing “related” versus “directly related”. **(TS – 00:47:45 Minutes).**

Dr. Grossman addressed Mr. Searcy’s argument. **(TS – 00:52:21 Minutes).**

Mr. Dierlam stipulated that in the current situation, the issue of whether or not this crime directly relates to practicing and the ability to practice is solely a conclusion of law and that there are no mixed issues of material facts. Mr. Dierlam requested that Mr. Grossman stipulate to that fact. Mr. Grossman stipulated that they clearly agree that a point of law is being argued at this point. **(TS – 00:54:45 Minutes).**

Dr. Morris inquired with multiple questions related to the length of time sentenced and served, costs, and probation of Dr. Bollo’s sentence. Mr. Grossman responded that Dr. Bollo was sentenced to 51 months and served 38 months, not on probation and fulfilled all his obligations. Dr. Bollo responded that there were zero court costs.

Motion: by Dr. Morris to accept that the findings of fact as alleged in the administrative complaint constitutes a violation of the statute as outlined in the administrative complaint.
Second: by Dr. Sadri
Vote: Passed Unanimously

Mr. Grossman confirmed that the documents from the circuit court do not reflect costs imposed in the case.

Dr. Sadri inquired with Dr. Bollo if he was listed on the sex offenders list. **(TS – 01:01:40 Minutes)**. Dr. Bollo responded that he is listed on the sex offenders list.

Dr. Sadri asked Dr. Bollo how would being on the sex offenders list affect his practice. Mr. Grossman rephrased the question to ask, “Is there a legal impact on his ability to practice being on the sexual offenders list”. Dr. Bollo answered in the negative.

Dr. Sadri asked if Dr. Bollo was allowed to see minor patients. Dr. Bollo answered that he is not doing that now, but Mr. Dierlam and Mr. Grossman both responded that they were not aware of any restrictions imposed on those on the sex offenders list regarding prohibitions against being in close contact with minors.

Dr. Sadri asked Dr. Bollo if he was prohibited from coming into contact with minors at this time? Dr. Bollo answered in the negative.

Mr. Searcy responded **(TS - 01:07:00 Minutes)**. The Prosecuting Services Unit believes that revocation is justified and is within the disciplinary guidelines for a crime directly related to the practice of podiatric medicine, thus is the Departments recommendation. Mr. Searcy noted that if the Board felt the action of revocation was too harsh, Prosecuting Services Unit believes that a permanent practice restriction permanently requiring a chaperone for minor patients.

Mr. Grossman responded **(TS - 01:08:45 Minutes)**. He stated substantiating evidence in this case is pretty much non-existent and believes that it is appropriate for the Board to follow its guidelines and give credence to the requirement to review the substantiating evidence.

Mr. Searcy noted that during the trial of Dr. Bollo, the jury was able to see the testimony live, and was able to weigh the credibility of all the witnesses, which this Board does not have the ability other than to hear spoken word, and believes this to be relevant information for the Board to understand.

Dr. Strickland proposed entertaining a motion to put Dr. Bollo on some sort of probationary action with the supervision of minors, or something to that effect.

Mr. Dierlam offered a couple of talking points when discussing a probationary/restriction action. **(TS - 01:11:25 Minutes)** One would be the duration of such probation/restrictions. If a chaperone is used, it is advised that the Board require the chaperone to be a licensed healthcare provider in the state of Florida.

Mr. Grossman confirmed that Dr. Bollo would not have any objection of a chaperone being a health care licensee under the Department of Health.

Dr. Morris noted that he was troubled with this because he did not see any substantiating evidence that supports extreme punishment.

Dr. Sadri noted his concern of being able to protect the public against this sensitive issue. Dr. Sadri asked what would happen if Dr. Bollo's appeal was successful. Mr. Dierlam responded that, procedurally, they would file a motion for Reconsideration of any Final Order that was imposed due to the overturn of the basis for the conviction. Mr. Dierlam reminded the Board that if the Board were to proceed with permanent restriction action, and there was a favorable outcome for Dr. Bollo's appeal, Dr. Bollo could petition the Board to lift any restrictive action.

(TS - 01:19:35 Minutes) Dr. Sadri inquired if Dr. Bollo was able to apply for licensure in other states. Mr. Dierlam responded that he would be able to apply for licensure, and asked Dr. Bollo if he was licensed in another state. Dr. Bollo responded in the negative.

Dr. Strickland proposed entertaining a motion to put Dr. Bollo on a 5-year probation and must have a monitor to see minor patients.

Mr. Dierlam noted that normally when the Board moves forward with discipline, they would impose fines pursuant to the disciplinary guidelines. Mr. Dierlam noted that the guidelines stated at least \$1,000 fine, and Mr. Grossman proposed a \$1,500 fine. Mr. Dierlam advised the Board to impose some sort of minimal fine, as well as recommend the Board impose a Letter of Concern or a reprimand.

Proposed motion proposed - Require a 5-year probation, a Letter of Concern, \$1,000 fine payable within six months, and prior to lifting of the probation, the respondent will petition the Board for lifting of the probation and appear before the Board at that time.

Dr. Sadri proposed doing a permanent restriction on seeing minor patients instead of doing a 5-year restriction from seeing minor patients. Dr. Sadri also proposed a Letter of Reprimand instead of a Letter of Concern. Dr. Sadri also proposed requiring 6-12 months of volunteer work with organizations related to victims of sexual abuse. Mr. Dierlam and Mr. Grossman expressed concerns that these types of organizations would agree to allow volunteer work from someone with this type of conviction. Dr. Sadri also proposed on-line courses as a means of continuing education.

Motion: by Dr. Strickland for a reprimand, \$1,000 fine payable within six months, an indefinite restriction from seeing minor patients without a Florida licensed healthcare chaperone present in the room with the right to petition the Board after five years for lifting of the restriction by showing the Board he can practice safely without the restriction in place, and 20 hours of sexual assault victim continuing education.

Second: by Dr. Morris

Vote: Passed Unanimously

Mr. Searcy requested that the Board accept the motion to assess costs in the amount of \$973.30 payable within timeframe appropriate to the Board from the date the Final Order is filed.

Motion: by Dr. Sadri to assess costs in the amount of \$973.30 payable within six months from the date the Final Order is filed.

Second: by Dr. Morris

Vote: Passed Unanimously

ADJOURNMENT @ 6:40 P.M.