

NEVADA STATE BOARD OF PODIATRY

TELEPHONIC BOARD MEETING MINUTES OF OCTOBER 20, 2014

1. ***Call to order, roll call of members, and establish quorum.*** The meeting was called to order at 5:34 p.m. by Dr. Douglas Stacey, President. Board Members present: Dr. Douglas Stacey, President; Dr. Clark Pillsbury, Vice President; Dr. Christine Clark, Secretary/Treasurer; Dr. Kenneth Jarvis, Board Member; Donna Baushke, Public Member. Non-Members present: Richard Dreitzer, Legal Counsel; Stacey Whittaker, Executive Director.
2. ***Public comment.*** No members of the public present at this time.
3. ***Review and approval of June 9, 2014 Board meeting minutes.*** Stacey Whittaker states that she has not received the June 9, 2014 meeting minutes from Allison Tresca as they were on the flash drive that was compromised. Stacey will check with Allison on obtaining the audio recording and is willing to compose the minutes before the next meeting.
Motion to table the approval of the June 9, 2014 meeting minutes until the next board meeting: Board Member Jarvis
Second to motion: Vice President Pillsbury
Motion passes unanimously.
4. ***Discussion and possible action regarding advertising practices per the request of Licensees Dr. Peter Bregman and Dr. Anthony Ricciardi.*** Dr. Ricciardi has joined the meeting at this time and would like to discuss a potential name change for his practice. He proposes “Total Extremity Care” to the Board as they will be bringing in a hand surgeon to work at the practice. Vice President Pillsbury asks Dr. Ricciardi if they are bringing in an Orthopedic Doctor to the clinic. Dr. Ricciardi states no, just the hand surgeon. Board Member Jarvis feels that the name should be more descriptive, as Total Extremity Care can be misinterpreted. Public Member Baushke has reviewed NAC 635.375 regarding advertising practices and feels that Total Extremity Care is completely misleading. Dr. Ricciardi asks the Board if they feel something along the lines of Hand and Foot Center would be more acceptable. The consensus of the Board is that this is a much more acceptable name and there are no further questions or comments.
5. ***Review and approve the addition of Stacey Whittaker, Executive Director of the Nevada State Board of Podiatry as an authorized signer on the Board’s Nevada State Bank account.***
President Stacey asks for a motion to move to Item #12 on the agenda before approving the status change.
Board Member Jarvis motions to move to Item #12 on the agenda.
Vice President Pillsbury seconds the motion.
Motion passes unanimously.
12. ***Review and discuss financial status of the Board, future reporting requirements, and all matters relating thereto.*** Stacey Whittaker, Executive Director explains that she has access to Quick Books but that she does not know how accurate the information is considering the embezzlement that took place. She is able to deposit money into the Nevada State Bank account and has deposited over \$40,000 in license renewal fees but

does not have access to bank statements/activity. Once she is authorized as a signer to the account, this information will be provided and Stacey and the Bookkeeper can work towards reconciling the account. Richard Dreitzer, Legal Counsel states that bottom line, the Board got burned. He feels that Stacey Whittaker is on top of things and the Board is operating in a positive manner. Stacey Whittaker states that the Board will be required to report a Balance Sheet to the Legislature by December 1, 2014 and asks if the financials have been reconciled. Richard Dreitzer recommends that Stacey reach out to the financial division of the LCB as they were involved in the embezzlement case.

Motion to table Item #12 until the next board meeting when more information will be available: Board Member Jarvis

Second to motion: Secretary/Treasurer Clark

Motion passes unanimously.

Dr. Bregman has now joined the meeting and apologizes for being late. He asks the Board to review Item #4 again and the outcome of their discussion with Dr. Ricciardi.

4. Discussion and possible action regarding advertising practices per the request of Licensees Dr. Peter Bregman and Dr. Anthony Ricciardi. President Stacey explains to Dr. Bregman that the Board feels “Total Extremity Care” is completely misleading and that they agreed on a name more along the lines of Hand and Foot Center with Dr. Ricciardi. Dr. Bregman feels that there are other practices out there with misleading names. Richard Dreitzer, Legal Counsel recommends that the Board does not discuss any other practice names since they were not noticed on the agenda. Dr. Bregman thanks the Board for their time; there are no further questions or comments.

- 5. Review and approve the addition of Stacey Whittaker, Executive Director of the Nevada State Board of Podiatry as an authorized signer on the Board’s Nevada State Bank account.** President Douglas Stacey asks the Board to return to Item #5 on the agenda following their discussion of Item #12. Public Member Baushke has great concerns regarding the financial status of the Board after the fraud that took place and feels that there should be two individuals authorized as signers on the account. Secretary/Treasurer Clark states that Allison Tresca had her go to Nevada State Bank to be added as an authorized signer but that up until this point there was only one authorized signer on the Board accounts. Board Member Jarvis states that his name was fraudulently written on over 50 checks and there was no one in place to catch it. Vice President Pillsbury states that it is necessary for Stacey Whittaker to be an authorized signer for the account and that he would be willing to go to the bank with her if necessary. President Stacey feels that the Board now has the proper systems in place with a Bookkeeper, Dr. Clark as an authorized signer and the Executive Director.

Motion to add Stacey Whittaker, Executive Director as an Authorized signer on the Nevada State Board of Podiatry’s Nevada State Bank Account: Secretary/Treasurer Clark.

Second to motion: Public Member Baushke

Motion passes unanimously.

President, Douglas Stacey, D.P.M.

Secretary/Treasurer, Christine Clark, D.P.M.

7. ***Update on Bookkeeper hired by the Board and all matters relating thereto.*** President Stacey asks that the Board discuss Item #7 on the agenda prior to Item #6. At the last Board meeting in June, the Board approved the hiring of Carol Woods, Bookkeeper. Stacey Whittaker informs the Board that she has met with Carol to review the financials and that she has set the Board up with online Quick Books. Stacey feels that this will be another safe guard in the security of the Boards funds. Board Member Jarvis feels that the Bookkeeper's rate of \$40 per hour is on the high side and would like to know the monthly cost of the Quick Books. Stacey briefly reviews the Bookkeeper's contract with the Board and that Carol is paid \$450.00 per quarter with the hourly fee only coming into play when duties go above and beyond the contract. President Stacey asks Stacey Whittaker to email the Bookkeeper's contract to the Board Members along with the cost of the online Quick Books subscription. There are no further questions or comments.
6. ***Review and consideration of converting the Executive Director position from an Independent Contractor status to an employee of the Board.*** President Stacey opens up Item #6 for discussion. Stacey Whittaker explains that she would like to be placed on payroll vs. an Independent Contractor. Her reasoning for this is that typically an Independent Contractor is hired on a project by project basis whereas an employee has set hours, job duties and reports to the board as is in this case. Stacey also informs the Board that she is not eligible for the State's liability coverage as an Independent Contractor and would have to purchase her own policy. Public Member Baushke asks how the Board paid the previous Executive Director. Secretary/Treasurer Clark states that she was a part time employee of the Board. Richard Dreitzer, Legal Counsel explains that the difference lies in the control the Board has over that person, it looks better if you employ the Executive Director so that there is direction and control. Board Member Jarvis agrees. President Stacey is concerned that anything over 30 hours per week would require benefits. Public Member Baushke was under the impression this was a 10-15 hour per week position. Stacey Whittaker states that she has been working closer to 20 hours per week during the clean up and license renewal period but absolutely agrees that it will go down to 10-15 hours per week. Richard Dreitzer, Legal Counsel suggests that the Board use this as a time to get the policies and procedures in place for the Executive Director position. President Stacey asks Stacey Whittaker to provide the Board with a copy of the Executive Director job description to be discussed at the next meeting. Vice President Pillsbury feels that after hearing the pros and cons, he is in favor of converting the Executive Director position to an employee status. Stacey Whittaker states that she is making \$25.00 per hour as an Independent Contractor and that it would cost the Board approximately 10% more to cover taxes, medicare, social security, unemployment insurance etc.

Motion to convert the Executive Director position from Independent Contractor to an Employee of the Board at the current rate of \$25 per hour beginning November 1, 2014:
Public Member Baushke.

Second to motion: Board Member Jarvis

Motion passes unanimously.

8. ***Update on Lobbyist hired by the Board and all matters relating thereto.*** Stacey Whittaker has been in contact with the Lobbyist, Rocky Finseth. He stated that they will begin listening to the Legislative chatter and inform of us of any issues that arise. Board Member Jarvis asks for clarification that the next session will begin next spring. Richard Dreitzer, Legal Counsel confirms. There are no further questions or comments.

- 9. Review and discuss hiring an Investigator for the Board and all matters relating thereto.** President Stacey opens up item for discussion and how the Board has handled complaints in the past. The Board would need to determine what the Investigator's duties will be and whether they use a licensed D.P.M. or someone in the community. Investigators can be used for site inspections, investigating complaints, gathering facts or even testifying at hearings. Public Member Baushke remembers the Board discussing placing an advertisement on the website for an Investigator. Board Member Jarvis is concerned with the travel costs that could be associated with investigations in addition to the hourly rate. Secretary/Treasurer Clark states that the Board has handled all of the complaints up to this point and that she has only had to travel one time based on the nature of the complaint. Richard Dreitzer, Legal Counsel states that the Investigator would be used to gather the facts as you don't necessary want your Board Members doing that. Board Member Jarvis feels that the liability should not be on the Board Member and that it would be beneficial to have an outside Investigator. Secretary/Treasurer Clark agrees but wants to see someone with statutory knowledge. She states that the policy in the past has been the Executive Director receives the complaint and sends a letter to the Doctor in which the complaint is against. They would then assign the case to an Investigating Board Member to gather the facts. Vice President Pillsbury states that he just worked on a complaint for the Board and felt it was an awkward position for an active Doctor to call another on the investigation. He also feels it takes a lot of time out of the day when both Doctors are seeing patients, it is difficult to connect. Public Member Baushke informs the Board that she has a copy of the complaint policy written and approved by the Board on 3-24-2010. President Stacey asks Public Member Baushke to forward the policy to Stacey Whittaker for dissemination to the Board Members. He would also like Stacey to forward any other policies she has on investigations to the Board. If the Board chooses to hire an Investigator, President Stacey has a retired colleague who would be a great candidate for the position.

Motion to table Item # 9 until further information is obtained and reviewed: Board Member Jarvis

Second to motion: Vice President Pillsbury

Motion passes unanimously.

- 10. Review and discuss the direct supervision of Podiatric Limited Licenses.** President Stacey explains that a Limited License allows individuals to practice in Nevada without passing the State Boards. The question is what the Board defines as "*direct supervision*" and there needs to be clarification as to what a Limited License can do. Richard Dreitzer, Legal Counsel explains that the Physical Therapy board went through a similar analysis and their theory is that there has to be a Licensed PT present and immediately available, they have to be within the same building. Board Member Jarvis asks if a Limited Licensee is able to sign their own chart notes and what would stop someone from hiring numerous Limited Licensees and fanning them out all over the State? President Stacey clarifies that they can work independently and they have to have their own liability coverage. These are Physicians with 25+ years of experience and are usually retired Podiatrists who want to work part time. He also points out that PA's are only supervised onsite for 30 days and MA's work in rural office settings without a Physician present. Stacey Whittaker reviews the NRS defining a Limited License and asks if the Board is looking to change the language? President Stacey says they are not looking to change the statutes, just defining what direct supervision means. Public Member Baushke feels that direct supervision means having the same interpretation from both Physicians prior to

them signing off on the treatment report and putting it into the patient record. Vice President Pillsbury and Board Member Jarvis agree that it may be all that is needed is to have a DPM in the same building as the Limited Licensee. The Board continues to discuss the similarities in other professions and what their policies are. Richard Dreitzer, Legal Counsel suggests contacting other State Boards to see how they handle supervision. Richard will work on gathering information from other States and send to Stacey Whittaker for dissemination. President Stacey would also like the Board Members to send him their interpretation or definition of “direct supervision.”

Motion to table Item #10 until further information is gathered: Board Member Jarvis
Second to motion: Public Member Baushke
Motion passes unanimously

11. Review and discuss the results of the criminal investigation involving the former Executive Director of the Board of Podiatry. Richard Dreitzer, Legal Counsel reviews the results of the Executive Director criminal investigation with the Board. Melissa Heyden was given parole and probation for embezzlement, no actual time behind bars. She will have to make restitution payments that will ultimately go to the State General Fund. Public Member Baushke asks what the payments will be; Richard is uncertain but says they will be minimal, around \$100-200 per month. President Stacey asks if there is any way the money can come back to the Board. Richard Dreitzer is willing to look into it since the Board was the injured party. President Stacey also asks who is ensuring that the terms of her conviction are being met. Richard explains that the Parole and Probation Division will oversee it and that the Board can ask for continual dialogue regarding the case. Richard agrees with the Board that this was not the ideal outcome but at this point they have to look at the positive. There are no further questions or comments.

13. Update on activities of the Board office. Executive Director Stacey Whittaker states that she has been working to get the office back up and running in addition to the annual license renewal period. She will then move forward to clean up the files and will need to create current lists of licensee information. Stacey is also looking into reporting requirements to ensure they are up to date. The Board’s account with the National Practitioners Data Bank was suspended for non-compliance as reports were not posted during 2012. Stacey has since submitted the reports to get the account in good standing. Stacey Whittaker asks for clarification regarding payment to Board Members for their time while working for the Board. The statutes allow no more than \$150.00 per day and it appears the Board was paying its members \$18.75 per hour for their time. Stacey informs them a lot of the other licensing boards pay the flat \$150.00 to their board members for their attendance at the meetings. Public Member Baushke feels that with the current state of the Board’s financials, she does not want to take more money from the Board. Vice President Pillsbury feels that once the financials are built back up, he would not be opposed to the increase in pay. He says it takes a lot of time out of his day to work on meetings and investigations when he could be seeing patients. President Stacey states that we can look at funds down the road to see what the budget allows. There are no further questions or comments.

14. Public comment. No members of the public present at this time.

15. Future agenda items.

- a) Review and approve June 9, 2014 and October 20, 2014 Board meeting minutes.
- b) General review of complaints received by the Board.
- c) Outline Executive Director job description/duties and terms of employment.
- d) Review hiring an Investigator for the Board.
- e) Review and discuss financial status of the Board.
- f) Update on activities of the Board.
- g) Direct supervision of Podiatric Limited Licenses in Nevada.

16. Discussion, possible decision on date of next Board meeting. The next board meeting is scheduled for December 8, 2014 @ 5:30 p.m.

17. Attorney-client meeting. Richard Dreitzer, Legal Counsel does not see a need to close the meeting at this point. The Executive Director investigation has been discussed and there are no further matters at this time.

18. Adjournment. (For possible action)

Motion to adjourn the meeting of the Nevada State Board of Podiatry at 7:28 p.m.: Vice President Pillsbury
Second to motion: Public Member Baushke
Motion passes unanimously.