

# NEVADA STATE BOARD OF PODIATRY

## BOARD MEETING MINUTES OF MAY 04, 2015

**1. *Call to order, roll call of members, and establish quorum.***

The meeting was called to order at 5:33 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.*** Rocky Finseth and Jenny Reese with Carrara, Nevada are present. Dr. Amir Shalev, D.P.M. is present. No public comments at this time.

**3. *Review and approval of June 9, 2014 and March 02, 2015 Board meeting minutes.***

Stacey Whittaker states that she has not yet received the June 9, 2014 meeting minutes from Allison Tresca as they were on the flash drive that was compromised. Stacey has just learned that there is not an audio recording of the meeting available and that Allison Tresca sent over her recollection of what was discussed at the meeting. Stacey will draft the meeting notes, documenting the extenuating circumstances and present them at the next board meeting.

Motion to approve the March 02, 2015 meeting minutes as written and to table the approval of the June 09, 2014 meeting minutes until the next board meeting:

Vice President Pillsbury

Second to motion: Board Member Baushke

Motion passes unanimously.

**4. *Review and discuss the current 2015 Legislative Session activity to include Bills and Fiscal Notes that may affect the State Board of Podiatry.***

Rocky Finseth, President of Carrara Nevada states that we are currently on day 92 of the 2015 Legislative Session with 28 days remaining. Things are moving along quickly and the Board should be receiving the weekly tracking reports. Jenny Reese, Vice President of Carrara Nevada reviews the current bills that they are monitoring for the Board and that there are 5 bills that have missed the deadline and are essentially dead. There will be two more deadlines on May 15 and 22, 2015 in which the bills will have to meet.

Jenny then reviews AB89 and SB68 and explains that they are very similar in nature pertaining to Veterans and the option to issue a license by endorsement. Board Member Baushke asks what "priority oppose" means on the tracking sheet. Jenny Reese explains that this means they have submitted amendments to the language on behalf of the board. SB68 was amended to include language regarding the fingerprinting process since it is a licensure requirement under NRS 635. Board Member Baushke asks why the Department of Commerce, Labor and Energy is sponsoring the bill. Jenny explains that it is on behalf of the Governor's Office on Economic Development and their efforts to bring more Physicians into Nevada by offering expedited licensure through endorsement.

Jenny reviews AB295 which revises provisions relating to Wellness Services. This bill was also amended to include language that a non licensed person who provides wellness services cannot engage in the practice podiatry in violation of NRS 635.

Jenny asks if there any questions or concerns regarding any of the bills they are currently monitoring. President Stacey thanks both Rocky and Jenny for their services and the recent update. There are no further questions or comments.

**\*In consideration of the attendance by Amir Shalev, D.P.M., the Board moves to Item #7 on the agenda.**

**7. *Review and discuss Board inquiry regarding a Licensed Podiatrist engaging in Telemedicine.***

Dr. Shalev, D.P.M. is present and explains that he contacted the Board regarding an offer he has received to engage in Telemedicine. The position would involve reviewing patient charts online and writing prescriptions for compounding creams to those patients that would benefit from them. The creams would be non narcotic and include pain cream, scar cream, metabolic and migraine creams. Before Dr. Shalev embarks on this opportunity, he wants to make sure it is within his scope of practice as a Podiatrist. He is not comfortable prescribing migraine creams as this is out of the scope of practice.

Board Member Baushke asks Dr. Shalev if he would be prescribing these creams without seeing the patient, Dr. Shalev confirms that is correct. Vice President Pillsbury feels that treating anything other than soft tissue from the hip down would be questionable. Secretary/Treasurer Clark also has concerns with the fact that these patients do not belong to Dr. Shalev and what would be the protocol if there was a problem down the road. Overall, the Board is concerned with the risk involved and treating anything other than soft tissue from the hip down. Dr. Shalev states that he has spoken with his liability insurance carrier and while they don't cover telemedicine, they felt that this was a gray area and didn't prohibit it. Dr. Shalev reiterates that is why he came before the Board, to ensure that he is not opening himself up to liability.

Richard Dreitzer, Board Counsel feels that the Board does not need to give risk management advice to the licensees and that this is not an issue for the Board to decide. The risk would be if someone files a formal complaint with the Board. President Stacey agrees and that the Board is not ready to make a policy statement regarding this or offer malpractice advice. Richard Dreitzer advises Dr. Shalev to speak with the industry association as they may be able to provide him with further guidance. There are no further questions or comments.

**5. *Licensee #2005, Stephen Levine, D.P.M. would like the Board to consider refunding his license application fee of \$600.00.***

Stacey Whittaker reminds the Board that this item was discussed and tabled at the last Board meeting. She and Richard Dreitzer have talked extensively about this and feel that since Dr. Levine was actually issued a license, the Board cannot reimburse the entire licensure fee. The two of them feel that reimbursing Dr. Levine half of the licensure fee (\$300) would be in the best interest of both parties. Board Member Baushke asks why the Board is not drafting a Memo of Understanding as previously discussed at the last Board meeting. Richard Dreitzer explains that less paperwork is better and that he does not feel it is necessary in this case. This mishap occurred during very extenuating circumstances and does not feel that this will set precedence in any way. Board Member Baushke asks if this affects Dr. Levine's license in any way. Stacey Whittaker says it will not and that he still has an active license through October 31, 2015. He can renew his license at that time if he chooses. The Board votes unanimously to refund Dr. Stephen Levine \$300 of his initial license application fee. There are no further questions or comments.

**6. Review and discuss the different types of licenses issued by the Nevada State Board of Podiatry under NRS 635 and the proposed language in SB68 regarding a license by endorsement.**

Stacey Whittaker reviews the various licenses issued by the Board under NRS 635 to include a Podiatry License, Limited License and a Provisional License. A Limited License is issued to candidates who have been licensed in another State for not less than 25 years but were not able to take the National Boards as they did not exist at the time. They must also practice under the direct supervision of a podiatric physician who is licensed in Nevada. President Stacey clarifies that originally there was a State exam required for licensure in Nevada and now the Board recognizes the examination given by the National Board of Podiatric Medical Examiners.

Stacey Whittaker then explains that a Provisional License is one that is issued to a candidate during his or her residency to practice under the direct supervision of a podiatric physician licensed in Nevada. A Provisional License is not effective for more than one year and cannot be renewed.

Senate Bill 68 would enable the Board to offer a license by endorsement to practice podiatry in Nevada. Stacey explains that the bill uses the term “may” which makes license by endorsement optional for the Board. In essence, this bill was created to expedite the licensure process for health care professionals. Stacey Whittaker feels that the Board of Podiatry already does a good job of expediting the licensure process once all of the requirements are met. Board Member Baushke asks if it is possible to strike Item #4 in SB68 under the changes to NRS 635 because they reference issuing the licenses by endorsement at a meeting of the Board. She feels that this is not the current protocol of the Board and that the Executive Director issues the licenses if there are not any problems. Stacey Whittaker clarifies that the language again says “may” which does not mandate the process but would be happy to look into it further. There are no further questions or comments.

**8. Review and discuss what the current Board’s policy is on Malpractice notifications.**

Stacey Whittaker asks the Board what the current policy is on malpractice notifications. President Stacey feels that the Podiatrist’s would have to disclose this information on either the application or their renewal application. Malpractice is also reported on the National Practitioner Data Bank. Stacey Whittaker states that in her research she found a letter that the Podiatry Board would send to a licensee if a malpractice report comes in from the Data Bank. It is essentially opening up a complaint and giving the podiatrist time to respond with their information.

Richard Dreitzer, Board Counsel explains that often times malpractice cases are settled and only if there is a court case with a resolution does it become public information. Richard advises the Board to clean up the license and renewal applications to include questions regarding malpractice. The concern is what the wording should be and whether or not the case was just filed or settled. Richard feels that he and the Board need to research this in more detail before changing the wording on the applications.

Motion to table Item #8 until the next board meeting:

Board Member Jarvis

Second to motion: Vice President Pillsbury

Motion passes unanimously.

**9. Review and discuss current financial status of the Board, and all matters relating thereto.**

President Stacey asks the Board if they have any questions regarding the financial statements and reports that were sent out. Overall, the Board is pleased with the financial

status and reports. Stacey Whittaker will continue to work with the Bookkeeper to reconcile the account and send the information out to the Board Members each month. There are no further questions or comments.

**10. Review and discuss establishing a second point of contact for the Board in the event of extenuating circumstances.**

Board Member Baushke felt that this needed to be addressed based on the extenuating circumstances that occurred with the Board in which phone calls and emails were not being attended to. She also worries that putting too much of the Board Member's contact information on the website could lead to open meeting law violations. Vice President Pillsbury agrees and that the public should be interacting with the Executive Director or Legal Counsel. Richard Dreitzer offers to use his law firm's main line as a backup for the Board. Stacey Whittaker has concerns in that she doesn't want basic phone calls regarding licensure going to Legal Counsel. Board Member Jarvis recommends using a back up phone system like grasshopper.com.

Stacey Whittaker feels that the Board could utilize the Administrative Office at Airport Gardens to assist in urgent situations. She could even provide them with the contact information for one of the Board Members to use if there are extenuating circumstances. The Board feels that this is the best solution to the problem and Board Member Baushke offers to be the emergency contact person. Stacey Whittaker will work with the Administrative Office at Airport Gardens to develop a plan and report back to the Board at the next meeting. There are no further questions or comments.

**11. Review and discuss the Investigator position and the parameters for hiring an Investigator for the Board.**

Stacey Whittaker has talked with some of the other licensing boards to gather information on who they use for investigations. Most of the larger boards have a full time licensed investigator that is paid approximately \$40,000-\$60,000 per year. A few boards also use the Advantage Group for their investigations, but regardless of who they use, they all have Investigating Board Members in addition to the Investigator. Stacey's concern with hiring a retired Podiatrist to do the investigations is that she was told that boards cannot contract with an investigator unless they are licensed. Richard Dreitzer, Board Counsel doesn't think that is the case and would like Stacey to find out if they meant a licensed podiatrist or a licensed investigator. Stacey has also heard from a licensing board that they have a full time investigator with a medical background who may be available to help out the Podiatry Board. She will talk in more detail to their Executive Director and have more information at the next meeting. Motion to table Item #11 until further information is gathered:

Board Member Baushke

Second to Motion: Secretary/Treasurer Clark

Motion passes unanimously.

**12. Review and discuss NRS 635.020 and the Board Policy on salaries for Board Members while engaged in Board business.**

Board Member Baushke has asked to revisit this item as she felt it was important to clarify why the policy was recently changed. The Board recently changed the compensation for Board Members to \$150 per board meeting as allowed in the statutes versus the \$18.75 per hour that was previously paid to the Board Members. Board Member Baushke wanted to make it clear that the Board is in a better financial situation now and can justify the higher pay. Stacey Whittaker reiterates that a lot of licensing boards pay the flat \$150 for board meetings but that it is up to the Board Members

whether or not they wish to receive compensation for their time. President Stacey reminds the Board that there is also the issue of being compensated for Board work such as investigations. The Board discusses the topic and agrees to the following. Motion to have the Board Executive Director automatically issue checks in the amount of \$150.00 to each Board Member for their attendance/participation at board meetings. Motion to also have the Board Executive Director include an expense form with each case file that is assigned to an Investigating Board Member. It will be at the Board Member's discretion as to whether they will turn in the expense form to be compensated for their time spent on investigations or business of the Board:

Vice President Pillsbury

Second to Motion: Board Member Jarvis

Motion passes unanimously.

**13. Review and discuss activities of the Board office and all matters relating thereto.**

Stacey Whittaker feels that most of the Board activity has been addressed throughout the meeting and that there is nothing further to report. She asks if there are any questions or concerns, there are none.

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

**15. Future agenda items.**

- a) Review and approve June 9, 2014 and May 04, 2015 Board meeting minutes.
- b) Review of 2015 Legislative Session.
- c) Review and discuss financial status of the Board and all matters relating thereto.
- d) Review and discuss the guidelines for hiring an Investigator for the Board.
- e) Review and discuss activities of the Board office and all matters relating thereto.

**16. Discussion, possible decision on date and parameters of next Board meeting.**

Stacey Whittaker and Richard Dreitzer explain to the Board that in the near future there may need to be a Board meeting in which videoconference is used in order to handle a complaint hearing and a couple of other Board items. Stacey Whittaker will be in touch with the Board Members when it comes time to schedule that meeting as it will most likely have to occur during normal business hours.

The next regularly scheduled board meeting is set for July 13, 2015 @ 5:30 p.m.

**17. Attorney-client meeting.**

Richard Dreitzer, Legal Counsel does not see a need to close the meeting at this point as there is nothing further to discuss.

**18. Adjournment.**

Motion to adjourn the meeting of the Nevada State Board of Podiatry at 7:22 p.m.:

Board Member Jarvis

Second to motion: Board Member Baushke

Motion passes unanimously.