

NEVADA STATE BOARD OF PODIATRY

BOARD MEETING MINUTES OF JULY 13, 2015

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

The meeting was called to order at 5:31 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. Stuart Feldman, D.P.M. is present. No public comments at this time.

3. *Review and approval of June 9, 2014 and May 4, 2015 Board meeting minutes.*

Motion to approve the June 9, 2014 meeting minutes as written:

Board Member Jarvis

Second to motion: Board Member Baushke

Motion passes unanimously.

Motion to approve the May 4, 2015 meeting minutes as written:

Board Member Baushke

Second to motion: Vice President Pillsbury

Motion passes unanimously.

4. *Review and discuss the current 2015 Legislative Session and final Legislative Report from Carrara Nevada.*

Rocky Finseth, President of Carrara Nevada states that Jenny Reese will be giving the Board a brief overview of the report but that he wanted to thank the Board for their business; he felt that Carrara Nevada provided a meaningful contribution throughout the Session and looks forward to a continued relationship.

Jenny reviews the final Legislative Report to include AB89 and SB68 which were similar pieces of Legislation. These bills create a “license by endorsement” that is optional for the Board, and the language was amended to include the correct licensure requirements for Podiatrists.

SB59 involved the State Business Portal that many people worked towards to make permissive, otherwise it would have been very costly for the licensing boards.

AB269 was a proposed bill that could have done away with all licensing boards. They were able to express their concerns from a health and safety issue, many people opposed the bill and it eventually died in the session.

AB295 references “Wellness Services” and the original language did not include Podiatrists as a medical profession. They were able to amend the language before it was passed.

SB408 referenced “Naturopathic Medicine” and was pretty much opposed by all of the medical related boards. This bill also died quietly and did not pass through Session.

AB492 was a bill that came up on one of the last days of session that would have done away with any language that was adopted by the boards prior to July 1, 1995 that hadn’t gone through the appropriate review process. This bill did not pass through Session.

Jenny asks if there are any questions or comments. Board Member Baushke asks Jenny if AB89 and SB68 were ever merged since their language was so similar. Jenny states that once the language is codified into statute, it will then be merged.

Jenny states that it was a pleasure working with the Board and that Stacey Whittaker was great to work with, making herself available at all times if anything urgent came up.

President Stacey thanks Jenny and Carrara Nevada for their services and looks forward to working with them in the future. There are no further questions or comments.

5. *Licensee #0105 Stuart Feldman, D.P.M. requests to be released from probation.*

Dr. Feldman declines a closed session as allowed under NRS241.030 and requests that the meeting stay open. Stacey Whittaker asks Dr. Feldman to provide the history surrounding the probation as many of the Board Members and herself were not around when the probation was administered. Dr. Feldman explains that back in 2006/2007, he was doing a lot of work in nursing homes that resulted in back pain and he became addicted to Hydrocodone. Dr. Feldman was arrested in 2010 and claimed to be the worst day of his life, in addition to being the best thing that ever happened to him. He then went to an inpatient rehab center in California for three months, completing the 90 day program. Dr. Feldman then successfully completed the Nevada Professionals Assistance Program under Dr. Peter Mansky on April 28, 2015. The program included 2 meetings a week with Dr. Mansky, 90 day urine screens, and two AA meetings a week. Dr. Feldman is proud to say he is now sponsoring two other Doctors in the program, is doing very well, is a much better person/Doctor, and looks forward to moving on from probation.

Board Member Baushke asks Richard Dreitzer if there are any other time constraints on the probation other than what is listed in the Consent Decree. Richard says there is not, everything is stipulated in the Consent Decree that was determined by the Board. Board Member Baushke asks Stacey Whittaker if Dr. Feldman met the license renewal requirements in 2014, Stacey confirms that he did. Dr. Clark asks Stacey if the financial obligations have been paid by Dr. Feldman as stated in the Consent Decree. Stacey confirms that they have as stated in a letter from the Board to Dr. Feldman dated February 9, 2012.

Dr. Stacey states that he has worked closely with Dr. Peter Mansky on the St. Rose Credentialing Committee and feels that the Board can be assured of Dr. Feldman's compliance based on Dr. Mansky's signature. Richard Dreitzer agrees, he too has worked with Dr. Mansky and feels that his opinion speaks volumes.

Stacey Whittaker and Richard Dreitzer clarify that even if Dr. Feldman is released from probation; it does not clear the disciplinary action taken by the Board and it will remain a reportable event.

President Stacey wraps up the conversation by reading the last page of Dr. Mansky's letter to the Board.

Motion to release Dr. Feldman from his probationary status: Vice President Pillsbury

Second to motion: Secretary/Treasurer Clark

Motion passes unanimously.

6. *Review and discuss the scope of practice for a Podiatric Limited License as defined under NRS 635.075.*

Board Member Baushke asks if we are discussing the scope of practice or revisiting the definition of direct supervision. President Stacey states that the Board is discussing NRS 635.075 and whether or not there are any limitations on what a Limited License Podiatrist can do as the Board has received some inquiries regarding this.

Board Member Jarvis feels that the Limited License is a nice way for applicants to get around the normal credentialing and that he doesn't want to see it abused. Board

Member Baushke asks how this was brought through Legislation, President Stacey states that this language was not written by the current Board.

Secretary/Treasurer Clark points out that under NRS635.075, Section 6(a), the Board can place restrictions and conditions upon a Limited License as the Board deems appropriate. Richard agrees, the Board cannot change the writing of the statutes but can certainly write a policy in regards to the scope of practice of a Limited License. He also feels that because a Limited Licensee is required to work under the direct supervision of a regularly Licensed Podiatrist, it is an incentive for the Doctors to keep a tight rein on those that they supervise.

Board Member Jarvis was under the assumption that a Limited License was put in place for a Podiatrist looking to semi retire and do routine care. He's heard rumors of Las Vegas Podiatrists bringing in Limited Licensees to do surgery.

Board Member Baushke recommends reviewing the applications on a case by case basis to determine if they will get a Limited License or a Podiatric License. Stacey Whittaker explains that the Limited License would only be applicable to the licensees who have not taken the National Board of Podiatric Medical Exam since it did not exist at the time they completed their education. Those applicants who have taken and passed the national exam would be issued a Podiatric License.

Vice President Pillsbury feels that these concerns can be alleviated by drafting a policy on the scope of practice.

President Stacey asks Dr. Jarvis to draft some preliminary language on the scope of practice of a Limited License and send to Stacey Whittaker to disseminate to the Board Members.

Motion by Board Member Jarvis that he will draft the preliminary language on the scope of practice of a Limited License and send to Stacey for dissemination to the Board Members. The Board Members will then send their thoughts on the language directly to Stacey Whittaker who will forward them to President Stacey for presentation at the next Board meeting.

Second to motion: Vice President Pillsbury

Motion passes unanimously

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

Stacey Whittaker informs the Board that she has been presented with the opportunity to utilize the services of the Investigator from the Nevada State Board of Osteopathic Medicine. This person is a Certified Medical Board Investigator who has previous experience in the medical field and is a former Police Officer. The fee to utilize this Investigator would be \$30 per hour (travel expenses would be an additional fee) paid directly to the Osteopathic Board. The Investigator would work closely with Stacey Whittaker and the Investigating Board Member on the case reviews. If the Board agrees to this arrangement, the Legal Counsel for the Osteopathic Board would work towards drafting an agreement.

Board Member Baushke likes this idea and is pleased with the hourly rate. President Stacey agrees, it's a win-win situation for everyone.

Motion to move forward with the drafting of an agreement to utilize the Nevada Osteopathic Medical Board's Investigator:

Board Member Jarvis

Second to Motion: Vice President Pillsbury

Motion passes unanimously.

8. Review and discuss the United States Supreme Court decision in the North Carolina State Board of Dental Examiners v. The Federal Trade Commission case.

Richard Dreitzer explains to the Board that this is for informational purposes only and is a case that has created a lot of buzz amongst professional licensing boards across the nation. It began when the North Carolina Dental Board regulated teeth whitening services by sending out Cease and Desist letters to those individuals who are not Licensed Dentists. Those individuals took the case to court and ultimately won. The U.S. Supreme Court decided that the Dental Board acted in an anticompetitive manner and lost their immunity. What this does is raise questions regarding professional licensing boards that regulate themselves and that are made up of market participants. Richard advises the Board to be cautious, and as long as they can justify their actions as protection of the public, there shouldn't be a problem. Time will tell if any action will be taken in Nevada in regards to the authority or make up of the licensing boards. In some States, every licensing board falls under one State Agency which isn't the ideal situation. There are no further questions or comments.

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 recommends putting some of the Board's funds back into a savings account as everything was moved over to checking after the embezzlement. Board Member Jarvis does not recommend a CD or long term investment, he would prefer the Board look into a T-Bill. Board Member Baushke agrees as these may be tax free. Stacey Whittaker feels that before a savings amount can be determined, she will need to look into creating a budget for the Board. It has been difficult to put a budget in place since the Board is still recovering from the embezzlement. Richard Dreitzer explains that his fees were a little higher last year than normal based on his time spent on the embezzlement case and helping the Board catch up on complaints.

Motion for Stacey Whittaker to look into investment options for the Board and work on a proposed budget for the next board meeting:

Board Member Jarvis

Second to motion: Board Member Baushke

Motion passes unanimously.

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

Stacey Whittaker states that she continues to work on Board inquiries, complaints and new applications. She has posted the second quarter, 2015 Disciplinary Action Report with the Legislative Counsel Bureau which included no disciplinary action taken and 4 new licenses issued. She and the Bookkeeper have completed the quarterly payroll tax reports for the Board and continue to reconcile the bank statements on a monthly basis. Stacey will continue to work on revising the Board applications to include missing statutory requirements as discussed by the Board and also the new data gathering requirements set forth by SB21 and SB68. There are no further questions or comments.

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

12. Future agenda items.

- a) Review and approve July 13, 2015 Board meeting minutes.

- b) Review and discuss financial status of the Board to include investment options and all matters relating thereto.
- c) Review and discuss update on hiring an Investigator for the Board.
- d) Review and discuss information gathered on the scope of practice for a Podiatric Limited License.
- e) Review and discuss activities of the Board office and all matters relating thereto.
- f) Review and discuss upcoming license renewal period.

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

The next board meeting is scheduled for September 14, 2015 @ 5:30 p.m.

14. Attorney-client meeting.

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

15. Adjournment.

Motion to adjourn the meeting of the Nevada State Board of Podiatry at 6:38 p.m.:

Vice President Pillsbury

Second to motion: Board Member Jarvis

Motion passes unanimously.