



State of Arizona Naturopathic Physicians Medical Board

“Protecting the Public’s Health”

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Douglas A. Ducey – Governor

Dr. Bruce Sadilek, ND – Chair • Dr. Marianne Marchese, ND – Vice Chair • Karen Tibbitts, - Public Member,
Dr. John Eldridge, NMD– Physician Member - Michael D. Jones, - Public Member,
Heston Silbert, - Public Member, Dr. Brian J. Popiel - Physician Member

MINUTES

BOARD MEETING

Thursday, April 13, 2017 • 1:00 p.m. • Basement Conference Room B-1
1400 West Washington • Phoenix, AZ 85007

1. CALL TO ORDER BY PRESIDING OFFICER

A. Roll call of Board members and establishment of a quorum to conduct meetings.

		SADILEK Chair	MARCHESE Vice Chair	TIBBITTS Sec. /Tres.	ELDRIDGE	JONES	SILBERT	POPIEL
Present	5	x		x	x		x	x
Absent	2		x			x		
Vacant	0							

B. Acknowledgement of presence of Board staff and legal counsel.

Ms. Sabrina Khan; Assistant Attorney General, Ms. Gail Anthony; Executive Director.

2. DECLARATION OF CONFLICTS OF INTEREST

None Declared

3. CIVILITY STATEMENT

Dr. Sadilek read the Civility Statement.

4. REVIEW, CONSIDERATION, AND POSSIBLE ACTION REGARDING APPROVAL OF THE BOARD MEETING MINUTES.

The Board may vote to go into Executive Session pursuant to A.R.S. § 32-431.03(A)(2) (to discuss confidential information) or A.R.S. § 38-431.03(A)(3) (to receive legal advice).

A. Regular Board Meeting Minutes of March 9, 2017

B. Executive Session Meeting Minutes of March 9, 2017.

Items 4 (A-B) were tabled.

5. CONSENT AGENDA – REVIEW, CONSIDERATION, AND POSSIBLE ACTION REGARDING APPROVAL OF THE FOLLOWING APPLICATIONS.

A. Naturopathic Medical License Renewal

Brown, Aiyana

B. Naturopathic Medical License by Examination

Ellington, Amber

Erxleben, Angela (temporary license issued in accordance with A.R.S. § 32 - 1522.01)

Green Lustig, Kimberly (temporary license issued in accordance with A.R.S. § 32 - 1522.01)

Hull, Ginger (temporary license issued in accordance with A.R.S. § 32 - 1522.01)

Kaplan, Steven (temporary license issued in accordance with A.R.S. § 32 - 1522.01)

Lad, Pranav

Major, Michael (temporary license issued in accordance with A.R.S. § 32 - 1522.01)

Mittman, Arie

Musset, Jeannette (temporary license issued in accordance with A.R.S. § 32 - 1522.01)

Shulman, Kathryn (temporary license issued in accordance with A.R.S. § 32 - 1522.01)

Smith, Ashley (temporary license issued in accordance with A.R.S. § 32 - 1522.01)

St. Rose, John

C. Initial Certificate to Dispense

Kaplan, Steven

D. Renewal of Certificate to Dispense

Boor, Terry

Brandies, Damien

de Graaff, Sonja

Helms, Laurent Stephun

Monterrey, Dayna

Neeley, Kyle

E. Reinstatement of Retired Certificate to Dispense

Lee, Stephen

F. Renewal Certificate to Engage in a Clinical Training Program

Turner, Jessica

CONSENT AGENDA VOTE: Ms. Tibbitts made a motion to approved items 5 (A-F). Seconded by Mr. Silbert. Motion Carried, 5 Ayes, 2 Absent.

	VOTE	SADILEK Chair	MARCHESE Vice Chair	TIBBITTS Sec. /Tres.	ELDRIDGE	JONES	SILBERT	POPIEL
Yes	5	x		x	x		x	x
No	0							
Abstain	0							
Absent	2		x			x		

6. REVIEW, CONSIDERATION, AND POSSIBLE ACTION REGARDING THE FOLLOWING BOARD CASES. The Board may vote to go into Executive Session pursuant to A.R.S. § 32-431.03(A)(2) (to discuss confidential information) or A.R.S. § 38-431.03(A)(3) (to receive legal advice).

A. Dr. Don Selvey- Case No.16-056 Investigative Interview

Dr. Selvey was present. Gail Anthony provided a summary of her investigation of the case. Board Member, Dr. Eldridge asked Dr. Selvey about patient ZT, who according to the records, claims an injury from workman's compensation. However, there is no documentation in the medical records or file relating to a workman's compensation claim or injury. Dr. Eldridge commented that the patient claims he is in pain and the Dr. Selvey is taking the simply taking the patients word for it because there are no records to support the injury. Dr. Selvey stated that it could have been that the patient had not seen anyone in the past 12 months.

Out of the 936 patients Dr. Selvey certified for medical marijuana between February 1, 2016 through August 1, 2016, 206 were between the ages of 18-26. Board Member, Mr. Silbert asked Dr. Selvey how many of those 206 patients he referred out for an additional medical evaluation, physical therapy, or anything else before certifying them for medical marijuana. Dr. Selvey stated probably none. Mr. Silbert asked if, as a physician, Dr. Selvey had an obligation to the patient to find out if they have a more severe issue before certifying for medical marijuana. Mr. Silbert further stated that he felt it was irresponsible for Dr. Selvey to keep someone on a drug year after year, when the underlying issue is not being addressed or taken care of.

Board Member, Dr. Popiel agreed with Mr. Silbert and stated that it appears Dr. Selvey does not send them out for further evaluation and continues to certify his patients for medical marijuana. Dr. Popiel stated that there are underlying medical issues that require medical evaluation, and that masking the pain with marijuana does not cure the ailment. Dr. Popiel cautioned that if underlying medical issues are not treated properly the medical issue could be severe. Dr. Selvey states he does have conversations with his patients about referring them for other treatments or evaluations; however, it may not be documented in the medical chart.

Dr. Eldridge commented that the workman's compensation patient discussed earlier should have been confirmed prior to issuing a medical marijuana certification. Dr. Eldridge further commented that it is Dr. Selvey's responsibility as a naturopath to treat the patient in a medically responsible way and do what is responsible in conjunction with proper medical protocols.

Dr. Sadilek stated he has concerns about him certifying patients for medical marijuana and referenced Dr. Selvey's written statement to the Board. He states vital signs have limited value. Dr. Sadilek pointed out that every patient you see, whether you think it's important or not, should have their vital signs taken. This means that patients should have their blood pressure, pulse, and respiration taken. Dr. Selvey stated they stopped taking patients vital signs because it did not add anything to the evaluation, as these patients come to his office to find out whether they meet the definition of severe and chronic pain for a medical marijuana certificate.

Dr. Sadilek made a motion to go into Executive Session for Legal Advice. Seconded by Ms. Tibbitts. Motion Carried 5 Ayes, 0 Absent.

The Board returned to Regular Session at 3:10 pm.

Dr. Selvey stated that DrReeferalz no longer schedules patients under the age of 25 without prior medical records. When asked if DrReeferalz refers patients to other medical providers when a patient presents with no medical records for the past 12 months, he claimed they do not.

Dr. Sadilek made a motion to offer a consent agreement. He pointed out several records as examples of failing below the standard of care. Mr. Silbert seconded the motion. Motion carried 5 Ayes, 2 Absent.

	VOTE	SADILEK Chair	MARCHESE Vice Chair	TIBBITTS Sec. /Tres.	ELDRIDGE	JONES	SILBERT	POPIEL
Yes	5	x		x	x		x	x
No	0							
Abstain	0							
Absent	2		x			x		

Dr. Sadilek made a motion to go into Executive Session for legal advice. Seconded by Dr. Popiel. Motion Carried 5 Ayes, 2 Absent.

The Board returned to Regular Session at 3:45 pm.

The Board discussed possible terms of a consent agreement. Mr. Silbert stated based on the fact that according to Dr. Selvey, DrReeferalz has now changed their policy to require patients 25 or younger to have prior medical records, that he will withdraw the 30 day license suspension, but would agree with a medical marijuana certification practice restriction.

Dr. Sadilek made a motion to offer a consent agreement for a 1 year term of probation, quarterly random chart reviews by the Executive Director. Seconded by Mr. Heston. Roll Call: Dr. Popiel; Aye, Ms. Tibbitts; Aye, Mr. Silbert; Aye, Dr. Eldridge; Aye, Dr. Sadilek; Aye. Motion Carries 5 Ayes, 2 Absent.

	VOTE	SADILEK Chair	MARCHESE Vice Chair	TIBBITTS Sec. /Tres.	ELDRIDGE	JONES	SILBERT	POPIEL
Yes	5	x		x	x		x	x
No	0							
Abstain	0							
Absent	2		x			x		

Dr. Sadilek made a motion to include in the consent agreement 12 hours of continuing medical education in physical assessment and diagnosis. Dr. Sadilek included this education requirement to so that Dr. Selvey would understand the importance of a patient's vital signs. Seconded by Dr. Eldridge.

Roll Call: Dr. Popiel; Aye, Ms. Tibbitts; Aye, Mr. Silbert; Aye, Dr. Eldridge; Aye, Dr. Sadilek; Aye. Motion Carries 5 Ayes, 2 Absent.

	VOTE	SADILEK Chair	MARCHESE Vice Chair	TIBBITTS Sec. /Tres.	ELDRIDGE	JONES	SILBERT	POPIEL
Yes	5	x		x	x		x	x
No	0							
Abstain	0							
Absent	2		x			x		

Dr. Sadilek made a motion to include in the consent agreement, a medical marijuana certification restriction on Dr. Selvey's license for 18 days. Seconded by Mr. Silbert. Roll Call: Dr. Popiel; Aye, Ms. Tibbitts; Aye, Mr. Silbert; Aye, Dr. Eldridge; Aye, Dr. Sadilek; Aye. Motion Carries 5 Ayes, 2 Absent.

	VOTE	SADILEK Chair	MARCHESE Vice Chair	TIBBITTS Sec. /Tres.	ELDRIDGE	JONES	SILBERT	POPIEL
Yes	5	x		x	x		x	x

No	0							
Abstain	0							
Absent	2		x			x		

B. Dr. Brendan McCarthy- Case No. 16-058 Investigative Interview

Dr. McCarthy was present and represented by legal counsel, Tamara Brooks-Primera. The records supplied to the Board included a copy of a medication request form dated January of 2014; however, according to the chart notes, Dr. McCarthy saw the patient for the first time in July of 2014. Dr. Sadilek asked Dr. McCarthy if he had supplied medication to the patient, prior to seeing her for the first time. Dr. McCarthy stated no, and that the date reflected on the medication request was an error. Dr. Sadilek asked about the Access lab results dated 9/28/2016, which indicates the testosterone results and references the patient as a male. Dr. McCarthy stated the results were for another patient and was included in the wrong chart by mistake. Dr. Popiel requested clarification from Dr. McCarthy regarding his Testosterone laboratory testing schedule. Dr. McCarthy clarified that timing of the laboratory requests.

Dr. Sadilek made a motion to dismiss the case. Seconded by Ms. Tibbitts. Motion Carried 5 Ayes, 2 Absent.

	VOTE	SADILEK Chair	MARCHESE Vice Chair	TIBBITTS Sec. /Tres.	ELDRIDGE	JONES	SILBERT	POPIEL
Yes	5	x		x	x		x	x
No	0							
Abstain	0							
Absent	2		x			x		

7. REVIEW, CONSIDERATION AND POSSIBLE ACTION REGARDING PROPOSED CONSENT AGREEMENT FOR DR. ORVILLE WEYRICH.

The Board may vote to go into Executive Session pursuant to A.R.S. § 32-431.03(A)(2) (to discuss confidential information) or A.R.S. § 38-431.03(A)(3) (to receive legal advice).

Dr. Weyrich was present. Executive Director provided a summary of her investigation and recent communications with Dr. Weyrich regarding the proposed consent agreement.

Dr. Sadilek made a motion to go into Executive Session for legal advice. Seconded by Ms. Tibbitts. Motion Carried 5 Ayes, 2 Absent.

The Board returned to Regular Session at 4:15 pm.

Dr. Weyrich commented on the consent agreement and impact it would have on his current patients. Dr. Sadilek stated that since these patients are seeking your medical services for pain, it may be better to have a physician who specializes in pain management to review the medical records.

Mr. Silbert made a motion to rescind the consent agreement and have the records reviewed by a pain management specialist.

Dr. Sadilek made a motion to go into Executive Session for Legal Advice. Seconded by Ms. Tibbitts. The Board resumed regular session at 4:41 pm.

Dr. Sadilek comments that it appears Dr. Weyrich is having some difficulty in being able to taper the patients down. We have a current motion on the table to rescind the consent agreement to have the records reviewed by a pain management specialist. Seconded by Ms. Tibbitts.

Roll Call: Dr. Popiel; Aye, Ms. Tibbitts; Aye, Mr. Silbert; Aye, Dr. Eldridge; Aye, Dr. Sadilek; Aye. Motion Carries 5 Ayes, 2 Absent.

	VOTE	SADILEK Chair	MARCHESE Vice Chair	TIBBITTS Sec. /Tres.	ELDRIDGE	JONES	SILBERT	POPIEL
Yes	5	x		x	x		x	x
No	0							
Abstain	0							
Absent	2		x			x		

8. REVIEW, CONSIDERATION, AND POSSIBLE ACTION REGARDING APPLICATION FOR RENEWAL OF NATUROPATHIC MEDICAL LICENSE.

The Board may vote to go into Executive Session pursuant to A.R.S. § 32-431.03(A)(2) (to discuss confidential information) or A.R.S. § 38-431.03(A)(3) (to receive legal advice).

A. Lahri Wikramanayake

Dr. Wikramanayake was present and explained the events that resulted in an order of protection. Sadilek asked about the status of the order of protection. Dr. Wikramanayake stated the family member that filed the order has agreed to drop the order and wanted to write a letter to the Board. The Board requested a copy of the letter once it is drafted by her family member, and documentation of her compliance with the court ordered education.

Mr. Silbert made a motion to approve the application for renewal of medical license. Seconded by Dr. Sadilek. Roll Call: Dr. Popiel; Aye, Ms. Tibbitts; Aye, Mr. Silbert; Aye, Dr. Eldridge; Aye, Dr. Sadilek; Aye. Motion Carries 5 Ayes, 2 Absent.

	VOTE	SADILEK Chair	MARCHESE Vice Chair	TIBBITTS Sec. /Tres.	ELDRIDGE	JONES	SILBERT	POPIEL
Yes	5	x		x	x		x	x
No	0							
Abstain	0							
Absent	2		x			x		

9. REVIEW, CONSIDERATION, AND POSSIBLE ACTION ON APPLICATIONS FOR INITIAL MEDICAL LICENSE.

The Board may vote to go into Executive Session pursuant to A.R.S. § 32-431.03(A)(2) (to discuss confidential information) or A.R.S. § 38-431.03(A)(3) (to receive legal advice).

A. Mario Coss

Mr. Coss was present. He explained the circumstances regarding the arrest history and stated that the information regarding an underage drinking charge had not shown up on previous background checks he had done.

Mr. Silbert made a motion to approve the application. Seconded by Dr. Sadilek. Motion Carried 5 Ayes, 2 Absent.

	VOTE	SADILEK Chair	MARCHESE Vice Chair	TIBBITTS Sec. /Tres.	ELDRIDGE	JONES	SILBERT	POPIEL
Yes	5	x		x	x		x	x
No	0							
Abstain	0							
Absent	2		x			x		

10. CALL TO THE PUBLIC

No public members requested to speak.

11. DISCUSSION AND CONSIDERATION OF EXECUTIVE DIRECTOR'S REPORT

The Board may vote to go into Executive Session pursuant to A.R.S. § 32-431.03(A)(2) (to discuss confidential information) or A.R.S. § 38-431.03(A)(3) (to receive legal advice).

- A. Budget
- B. Executive Order 2017-03
No Action Required or Taken.

12. FUTURE AGENDA ITEMS

The Board requested Training from the Assistant Attorney general to be included in the next agenda.

13. ADJOURNMENT

The meeting was adjourned at 5:05 pm.