

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NEW MEXICO REGULATION AND LICENSING DEPARTMENT
BOARDS AND COMMISSIONS DIVISION
New Mexico Board of Podiatry

NEW MEXICO BOARD OF PODIATRY
RULE HEARING
December 2, 2016
5500 San Antonio Dr. NE
Albuquerque, New Mexico 87109
1:30 p.m.

PURSUANT TO THE APPLICABLE RULES OF CIVIL
PROCEDURE, this hearing was:

REPORTED BY: Jeannine K. Sims, NM CR #12
Paul Baca Professional Court Reporters
500 Fourth Street NW, Suite 105
Albuquerque, New Mexico 87102

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

COMMISSIONERS PRESENT:

- Ms. Cynthia Graystone
- Mr. Marcus Erickson
- Mr. Frank Kunc
- Dr. Janet Simon
- Ms. Judy Frakes
- Dr. Joel Wilner
- Mr. Joseph Dworak, Board counsel

1 DR. SIMON: Welcome, everyone. We'll be
2 opening this hearing. We'll please come to order. I am
3 Janet Simon, professional member of the New Mexico Board
4 of Podiatry; I will be acting as the presiding officer
5 for this rule hearing.

6 The purpose of this hearing is for the Board
7 to receive public comment on the proposed amendments to
8 the Board's current rules and regulations. The Board
9 welcomes everyone present at this hearing.

10 The hearing is being conducted pursuant to,
11 and in accordance with, the provisions of New Mexico
12 Podiatric Practice Act, NMSA 1978, Section 61-8.1 through
13 61-8.17; the Open Meetings Act, Sections 10-15-1 through
14 10-15-4, and the Uniform Licensing Act, NMSA 1978,
15 Sections 61-1-29 through 61-1-33.

16 The New Mexico Lobbyist Regulation Act
17 regulates activities before boards and commissions in
18 rule-making proceedings. Contact the Secretary of
19 State's Office for information and registration.

20 Public notice of this hearing was advertised
21 in the New Mexico Register and the Albuquerque Journal.
22 Copies have been available from the Board Office since
23 the notices were published and are available to the
24 public viewing for this hearing. Copies of the proposed
25 rules were also published on the Board's internet website

1 at www.rld.state.nm.us, and were available to anyone who
2 requested them.

3 And may I just remind everyone to sign in on
4 the attendance sheet. That will be entered as an exhibit
5 into the record of this meeting. Okay. And
6 introductions. Would the board administrator, Cynthia
7 Graystone call the roll of board members present for this
8 hearing today.

9 MS. GRAYSTONE: Janet Simon.

10 DR. SIMON: Present.

11 FRANK KUNC: Frank Kunc.

12 MS. GRAYSTONE: Present. Joel Wilner.

13 DR. WILNER: Present.

14 MS. GRAYSTONE: Frank Kunc, present. And
15 Dr. Schulhofer is absent.

16 DR. SIMON: Let the record show that
17 assistant attorney general and board counsel is present
18 to advise the board. Also present in Cynthia Graystone,
19 the Board's administrator.

20 For the record, would the members of the
21 audience please introduce themselves and their
22 affiliation, please.

23 MS. HERRAND: Brianna Herrand, Department of
24 health.

25 MR. TRUJILLO: Chris Trujillo, Department of

1 Health.

2 MS. SANCHEZ: Alex Sanchez, I'm the Deputy
3 Superintendent of RLD.

4 DR. SIMON: Great. Thank you. This is a
5 formal proceeding and a court reporter has been
6 contracted to record the proceedings. The court reporter
7 will record the proceedings and the transcript will
8 become part of the rule hearing record. Therefore,
9 persons recognized to address the Board are asked to
10 identify yourself for the record each time you address
11 the Board and speak loudly and clearly so the recorder
12 can pick up your comments.

13 This hearing will be conducted in the
14 following manner: Ms. Graystone will present exhibits to
15 the Board. I, as the presiding officer, will rule on the
16 admissibility of the exhibits offered for admission after
17 allowing questions from members of the Board.

18 Exhibits admitted into evidence are
19 available for review by members of the public. However,
20 exhibits may not be removed from the room. After
21 Ms. Graystone offers exhibits and their admission has
22 been ruled upon, I will open the hearing for comments
23 from the audience. We will proceed in numerical sequence
24 through each proposed rule.

25 Okay. We will address only one rule at a

1 time. However, you may refer to other rules that
2 reasonably relate to that rule discussed or which relate
3 to your comments.

4 The New Mexico Board of Podiatry does not
5 follow the rules of evidence but shall, in the interest
6 of efficiency, reserve the right to offer all testimony
7 deemed irrelevant, redundant, or unduly repetitive. The
8 decision as to whether such testimony is irrelevant,
9 redundant or unduly repetitive shall be made by me as the
10 presiding officer.

11 May have I have a show of hands on the
12 number of people who intent to testify or comment on the
13 proposed rules? Okay. Seeing none, after a person has
14 testified or offered comment, I will permit the Board
15 members to question that person. Any member of the
16 audience wishing to question that person may do so after
17 being recognized by me, the presiding officer. Each
18 person recognized to speak shall identify him- or herself
19 for the record.

20 At the conclusion of this rule hearing, the
21 Board will hold its meeting where they will conduct
22 discussions and take final action such as amending,
23 adopting, tabling, and so forth on the rules.

24 Okay. So this public hearing is now open.
25 Ms. Graystone, at this time do you have any exhibits to

1 introduce into evidence?

2 MS. GRAYSTONE: Dr. Simon, I have the
3 following exhibits to enter into evidence:

4 We have Exhibit 1, the legal notice
5 published in the New Mexico Register.

6 Exhibit 2, the legal notice published in the
7 Albuquerque Journal.

8 Exhibit 3, notice sent to the interested
9 parties.

10 And Exhibit 4, proposed amendments to the
11 Board's rule, Part 9 of 16.21 NMAC entitled, "Management
12 of pain -- Management of Pain with Controlled
13 Substances."

14 And Exhibit 5 is the memo. Exhibit 6 will
15 be our final sign-in sheet.

16 DR. SIMON: Okay. Are there any questions
17 from the Board members? Okay. Exhibits 1 through 5 are
18 thereby admitted into the record. Ms. Graystone, are
19 there any other exhibits to enter into the record at this
20 time?

21 MS. GRAYSTONE: No, Madam Chair.

22 DR. SIMON: Okay. And any persons wishing
23 to testify and who wish to submit evidence with their
24 comments shall do so when they are recognized to testify.

25 Each document shall be introduced as an

1 exhibit into the record. Board members will be permitted
2 to ask questions before I rule on the admissibility of
3 the evidence. Upon admissibility, each exhibit will be
4 marked and numbered and entered into the record.

5 At this time, each proposed rule will be
6 introduced, in turn, into the record. I will open the
7 floor to members of the audience for testimony and
8 comments on each rule. Members of the Board or of the
9 audience may question each witness upon being recognized
10 to speak. However, any discussion by the Board will be
11 held during the meeting following.

12 Okay. And would anyone wish to comment on
13 Part 9, "Management of Pain with Controlled Substances"?
14 And we all have that here. Or if you wish -- okay.
15 Let's see. There we go. Okay.

16 So if you're looking at any hard copy
17 here -- oops. So there we go. The proposed changes are
18 in the green. So do we need to verbally go through the
19 changes or just --

20 MS. GRAYSTONE: No. Anyone wants to --

21 DR. SIMON: They've been submitted. Right.
22 Okay. Okay. Any questions from Board members at this
23 point in time? Would anyone in the audience wish to make
24 any further comments at this point in time?

25 MS. GRAYSTONE: Y'all went over them, right?

1 Okay.

2 DR. SIMON: Given that, I think we've
3 completed our public comment period with no public
4 comments. We can close the hearing. Has everyone
5 present signed the attendance sheet? Yes. At this time
6 the attendance sheet shall be marked as an exhibit and
7 marked into the record.

8 MS. GRAYSTONE: Dr. Simon, I ask the
9 admission of the attendance sheet to be Exhibit 6.

10 DR. SIMON: Okay. Any board members have
11 any questions at this time? Exhibit 6 is hereby admitted
12 into the record.

13 The comments submitted and the discussion
14 held -- heard during the rule hearing will be considered
15 and may be discussed further by the Board during the
16 regular meeting following the rule hearing. The Board
17 will vote on the proposed rules at that time.

18 Members of the audience are invited to stay
19 for the meeting. The Board asks if you stay for the
20 regular Board meeting.

21 Any rules adopted by the Board will be filed
22 at State Records and Archives in accordance with the
23 State Rules Act and New Mexico Register publication
24 deadlines. The adopted rules become effective 30 days
25 after they are filed at Records and Archives unless

1 otherwise noted at the end of a section.

2 Any rules not adopted may be postponed for
3 further discussion at a definite time in the future, or
4 may be postponed indefinitely.

5 I would like to thank all Board members and
6 everyone else present for their participation and
7 attendance today.

8 We will move into our next meeting. Let the
9 record show that this hearing was adjourned at 1:42 p.m.

10 (Break.)

11 DR. SIMON: So we are moving into our
12 regular board meeting. Calling to order at 1:44 p.m.
13 Board chair Janet Simon called this meeting of the New
14 Mexico Board of Podiatry to order December 2nd, 2016.
15 May we have a roll call again, please.

16 MS. GRAYSTONE: Dr. Simon.

17 DR. SIMON: Present.

18 MS. GRAYSTONE: Dr. Wilner.

19 DR. WILNER: Present.

20 MS. GRAYSTONE: Frank Kunc.

21 MR. KUNC: Present.

22 MS. GRAYSTONE: Dr. Schulhofer is absent.

23 And Judy Frakes.

24 MS. FRAKES: Present.

25 MS. GRAYSTONE: You have a quorum, Madam,