



Arizona Medical Board

1740 W. Adams St, Suite 4000 • Phoenix, Arizona 85007

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Telephone (480) 551-2700 • Fax (480) 551-2705 • In-State Toll Free (877) 255-2212

FINAL MINUTES FOR SPECIAL TELECONFERENCE MEETING

Held on Monday, December 2, 2019

1740 W. Adams St., Board Room 4100 • Phoenix, Arizona

Board Members

R. Screven Farmer, M.D., Chair
James M. Gillard, M.D., M.S., F.A.C.E.P., F.A.A.E.M., Vice-Chair
Edward G. Paul, M.D., Secretary
Jodi A. Bain, M.A., J.D., LL.M.
Bruce A. Bethancourt, M.D., F.A.C.P.
David C. Beyer, M.D., F.A.C.R., F.A.S.T.R.O.
Teresa L. Connolly, D.N.P., R.N., N.E.A.-B.C.
Laura Dorrell, M.S.N., R.N.
Gary R. Figge, M.D.
Pamela E. Jones
Lois E. Krahn, M.D.

GENERAL BUSINESS

A. CALL TO ORDER

Chairman Farmer called the meeting to order at 3:00 p.m.

B. ROLL CALL

The following Board members participated telephonically: Dr. Farmer, Dr. Gillard, Dr. Paul, Ms. Bain, Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Dr. Figge, Ms. Jones and Dr. Krahn.

Present among Board staff include: Patricia McSorley, Executive Director; Kristina Fredericksen, Deputy Director; Raquel Rivera, Investigations Manager; William Wolf, M.D., Chief Medical Consultant; Michelle Robles, Board Operations Manager. Also present among Board staff include: Carrie Smith, Assistant Attorney General (AAG); Anne Froedge, AAG; and, Elizabeth Campbell, AAG, participated telephonically to provide independent legal advice to the Board on matters as identified herein.

C. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA

Nobody addressed the Board during the Public Statements portion of the meeting.

LEGAL MATTERS

D. DISCUSSION AND POSSIBLE ACTION REGARDING RESPONDENT'S SETTLEMENT PROPOSAL

1. MD-18-0295A, JOSHUA D. HOLLAND, M.D., LIC. #17551

Dr. Holland was present with counsel, Carol Romano. AAG Anne Froedge was present on behalf of the State. AAG Elizabeth Campbell was present as the Board's Independent Legal Advisor.

Ms. Romano stated that when the Board issued the Interim Order on June 19, 2019 it did not have the benefit of expert reports that they submitted in August. At the time of the summary action meeting the Board took action based on Dr. Block's report where he made statements that Dr. Holland should have made a cardiac referral and completed EKGs. Dr. Holland has since obtained a review of the cases by a cardiologist, who rebutted that finding. Dr. Holland also obtain a report by Dr. Axler, an endocrinologist,

who stated that there was nothing wrong in the charts and that the prescribed medications were safe. Ms. Romano stated that the Board was concerned with a case from 10 years ago regarding opioid prescribing by Dr. Holland however, this case is not regarding opioid medications and noted that Dr. Holland no longer prescribes opioid medications. Ms. Romano informed the Board that Dr. Holland will no longer prescribe weight loss medications and will not prescribe benzodiazepines for longer than a month at a time. Ms. Romano noted that Dr. Holland is also willing to take CME that the Board deems appropriate. Ms. Romano stated that restricting him from all controlled substances will no longer allow Dr. Holland to practice.

Dr. Holland stated that upon the Board's interim order he has since resigned from the hospital, insurance companies have terminated his contracts due to the NPDB report and he has also lost his Medicare contracts. Dr. Holland commented that he has gone from having a thriving practice to no longer being able to pay his bills and all his patients have been reassigned.

Ms. Froedge explained that the purpose of today is to discuss the possibility of a settlement. Ms. Froedge explained that from the State's perspective the proposed consent agreement serves two important goals which is to protect the public and to allow Dr. Holland to practice medicine. Ms. Froedge noted that she attached the Summary Suspension Order to the State's response because it sets forth the allegations of the case. Part of the case involved the weight loss medications and controlled substances prescribing, which included opioids and benzodiazepines. There were also concerns regarding early prescribing and inappropriate prescribing. This case also involved failing to supervise personnel in the weight loss clinic. This involved office staff administering the medications and prescriptions were issued while Dr. Holland was out of the State. Dr. Block has reviewed the expert reports that were provided and his opinion was not changed. Ms. Froedge noted that Dr. Axiler stated in his review that Dr. Holland's charts and his monitoring of weight loss patients could use improvement. Both of the experts are assuming that the patients were obese. The first patient was not even overweight. This presents an issue with patient selection and calls into question Dr. Holland's judgement. Board staff and the State is open to the proposed consent agreement or Board suggestions. Ms. Froedge informed the Board that the Formal Hearing is set for January 14th, 15th and 16th.

Ms. Romano stated that Dr. Holland's failure to supervise staff and improving medical recordkeeping has nothing to do with prescribing controlled substances. The only reference regarding controlled substances was the prescribing of benzodiazepines, which is why Dr. Holland has requested a limited prescribing restriction. Dr. Block's report admits that there is a great deal of disagreement on how to utilize obesity medication in the literature and that there is support for providing treatment to patients who are prone to obesity. Ms. Romano reported that Dr. Holland is now utilizing a scribe and is happy to address the Board's concerns. Ms. Romano stated that Dr. Holland is willing to be under a period of Probation and is willing not to prescribe weight loss medications or opioids. Dr. Holland is requesting a consent agreement that limits controlled substances but not be fully restricted from all controlled substances.

Dr. Holland commented that no patient harm was done and that his patients were not unhappy with the care provided.

Ms. Romano commented that going forward with the hearing is not in anyone's best interest with regards to the expense and that Dr. Block does not have a chance in convincing the ALJ that Dr. Holland should be restricted from prescribing controlled substances. Ms. Romano stated that their experts support that Dr. Holland's treatment of the patients in this case was appropriate.

Dr. Holland reiterated that he has ceded prescribing weight loss and scheduled two medications. Dr. Holland requested that he be allowed to practice family and internal

medicine. Dr. Holland stated that he will no longer treat pain management or weight loss patients.

During deliberations, Dr. Krahn commented that there has been confusion regarding controlled substances and what it includes. Dr. Krahn noted that benzodiazepines are regulated, are scheduled and are controlled substances. Dr. Krahn expressed concern that one month prescriptions does not prevent a patient from being on a high dosage. There is also a concern that weight loss medications were being administered without supervision which calls into question judgement. Dr. Krahn noted also noted that there are serious issues with the medical records that did not match up during the Board's investigation. Dr. Bethancourt opined that medications being provided and patients being seen without the physician being present was the biggest concern. Dr. Farmer opined that prescribing controlled substances and dispensing medication when not present and lack of supervision of staff with the regards to controlled substances is a flagrant violation. Especially given a history with the Board regarding prescribing. Dr. Figge expressed concern that benzodiazepines are being portrayed as non-addictive medications, which is not the case.

Dr. Farmer explained that the Board can accept, reject or modify the settlement proposal being offered.

MOTION: Dr. Gillard moved for the Board to enter into Executive Session to receive legal advice pursuant to A.R.S. 38-431.03(A)(3).

SECOND: Dr. Krahn.

VOTE: The following Board members voted in favor of the motion: Dr. Farmer, Dr. Gillard, Dr. Paul, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Ms. Dorrell, Dr. Figge, Ms. Jones and Dr. Krahn. The following Board member was absent: Dr. Beyer.

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Board entered into Executive Session at 3:25

The Board returned to Open Session at 3:44 p.m.

No legal action was taken by the Board during Executive Session.

Dr. Farmer expressed concern that Dr. Holland's would not properly supervise staff and issues regarding prescribing controlled substances given his previous Decree of Censure regarding prescribing controlled substances. Dr. Farmer found Dr. Holland's actions egregious and brings into question his judgement. Dr. Krahn agreed with Dr. Farmer's concerns and noted that this case involves a much broader issue other than weight loss medications. Dr. Gillard noted that a full restriction would limit Dr. Holland's ability to treat other illnesses. Dr. Gillard suggested a modified restriction for opioids, weight loss medications and benzodiazepines. Dr. Krahn noted that there are also medical record concerns and that the addition of a scribe has not necessarily improved things. Dr. Krahn expressed concern that the modified consent does not address all the concerns and that it would be difficult to track these changes.

Dr. Paul opined that given the combination of failing to supervise, prescribing combinations and medical recordkeeping violations the Board should move forward with the previous action. Dr. Bethancourt noted that it would be difficult to track specific controlled substances from each other and agrees with the original consent agreement.

Dr. Farmer spoke in favor of the original consent agreement due to the physician's previous Decree of Censure and then flagrantly violated procedures for prescribing controlled substances calls into question judgement and public safety. Dr. Krahn noted that a Formal Hearing is already scheduled and that this best serves the physician's ability to return to practice.

Ms. Campbell explained that Ms. Froedge proposed a consent agreement on behalf of the State. If the Board is in favor of the proposal they would need to formally offer the consent agreement to Ms. Romano and Dr. Holland.

MOTION: Dr. Gillard moved to offer the proposed ca as drafted by Anne Frodege to Ms. Romano and Dr. Holland to be accepted or rejected within five business days.

SECOND: Dr. Figge.

Dr. Gillard noted that the proposed order includes a Decree of Censure, Ten Year Probation, and a Practice Restriction. Board members agreed that moving forward with a Formal hearing or accepting the proposed consent agreement best protects the public.

VOTE: The following Board members voted in favor of the motion: Dr. Farmer, Dr. Gillard, Dr. Paul, Dr. Bethancourt, Dr. Connolly, Ms. Dorrell, Dr. Figge, Ms. Jones and Dr. Krahn. The following Board member abstained: Dr. Beyer. The following Board member was absent: Ms. Bain.

VOTE: 9-yay, 0-nay, 1-abstain, 0-recuse, 1-absent.

MOTION PASSED.

E. ADJOURNMENT

MOTION: Dr. Krahn moved for adjournment.

SECOND: Dr. Figge.

VOTE: The following Board members voted in favor of the motion: Dr. Farmer, Dr. Gillard, Dr. Paul, Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Dr. Figge, Ms. Jones and Dr. Krahn. The following Board member was absent: Ms. Bain.

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Board's meeting adjourned at 3:58 p.m.




Patricia E. McSorley, Executive Director