



Arizona Medical Board

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FINAL MINUTES FOR SPECIAL TELECONFERENCE MEETING Held on March 24, 2020 1740 W. Adams St., 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.
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 Board's meeting to order at 3:12 p.m. He stated he believed that the Board must continue to function efficiently and effectively for the purpose of public safety. Chairman Farmer recognized and expressed appreciation for the Board members and staff for their efforts and participation in today's proceedings.

B. ROLL CALL

The following Board members participated telephonically: Ms. Bain, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Chairman Farmer, Dr. Figge, Vice-Chairman Gillard, Dr. Krahn, and Dr. Paul. The following Board member was absent: Ms. Jones.

ALSO PRESENT

The following Board staff participated telephonically: Patricia McSorley, Executive Director; Kristina Fredericksen, Deputy Director; Alicia Cauthon, Executive Director Assistant; Raquel Rivera, Investigations Manager; and, Andrea Cisneros, Minutes Administrator. The following members of Board staff were present: Michelle Robles, Board Operations Manager; and, Carrie Smith, Assistant Attorney General (AAG).

C. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA

No individuals addressed the Board during the Public Statements portion of the meeting.

D. EXECUTIVE DIRECTOR'S REPORT

- Update on Personnel Concerns as a Result of COVID-19

Executive Director McSorley reported that the Board's staff has been set up for working remotely from home with constant communication with the office in accordance with the Department of Administration protocols for teleworking. She stated that 25% of Board staff are physically in the office while adhering to recommendations for social distancing and good hygiene.

- Update on the Statewide Disaster Medical Advisory Committee Meeting

Executive Director McSorley informed the Board that the Committee was established by the Department of Health Services ("DHS") and include health regulatory boards, hospital

administrators, as well as a number of representatives from DHS. She stated that the Committee's purpose is to provide recommendations to the Governor relating to what steps should be taken during the current declared state of emergency. She stated that at its most recent meeting, the Committee discussed two elements related to the COVID-19 epidemic. The Committee broke the recommendation down into three categories: Convention, Contingency, and Crisis. She stated that the Committee adopted the CDC guidelines for the prioritization for the use of PPE, and that it was clear the need for PPE was greater than PPE availability. The Committee also discussed the prioritization and recommendations for testing of individuals who may have been exposed to COVID-19, individuals exhibiting signs of the virus, and those individuals in living situations where the spread of the virus is likely. Dr. Beyer questioned whether the Committee discussed the ability for individuals or facilities to re-sterilize in an off-label fashion as he had read about this being done in some places. Executive Director McSorley stated that the Committee discussed implementing CDC guidelines, and that the type of discussion Mr. Beyer referenced would be appropriate for when they move to the Crisis category, and that the Committee was currently functioning under the Contingency category.

E. CHAIR'S REPORT

- Update on April 7, 2020 Teleconference Meeting

Chairman Farmer stated that the Board's next regular meeting will be held telephonically. He instructed Board members on the processes to follow for the upcoming meeting, including calling on members individually to speak. He stated that while the Board will not have the ability of videoconferencing by the April 2020 meeting, he is hopeful for the technology to be available for the Board's May 2020 meeting.

F. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING REQUEST FOR TEMPORARY WAIVER OF LICENSURE REQUIREMENTS PURSUANT TO ADHS ADMINISTRATIVE ORDER 2020-01.

Executive Director McSorley stated that it is not unusual for medical boards to waive requirements under a declared state of emergency and try to establish processes for emergency licensure in order to potentially increase the number of physicians available to treat those impacted. She informed the Board that the Governor's Executive Order gives DHS the authority to act during the current health emergency and coupled with Administrative Order 2020-01, it was determined that it would be useful to establish a process for emergency temporary licensure. She stated that in order to do so, the Board must request waiver of certain licensure requirements, and reported that the temporary license application was used as a vehicle to begin the process. Executive Director McSorley asked the Board to consider the application drafted by staff, which included waiving certain requirements including the simultaneous filing for initial licensure, fees, and fingerprint clearance. She also asked that the Board consider placing a timeframe on the license for a duration of 90 days or for the extent of the state of emergency, whichever comes first, and stated that in light of waiving the fingerprint requirement, applicants will be asked to answer in writing regarding whether or not they have been convicted of a crime and attest that what they are representing to the Board is true and accurate.

Executive Director McSorley stated that the staff will be utilizing the National Practitioner Data Bank ("NPDB") during the application review process, and will be querying the Federation of State Medical Boards ("FSMB") to verify whether or not the applicant has disciplinary action as well as the American Medical Association which provides good representation of the individuals background. In response to a Board member question, AAG Smith stated that the DHS Administrative Order allows health professional regulatory boards to identify professional licensure requirements under its authority for which a temporary waiver is necessary to address the state of emergency and provide justifications for temporarily waiving those requirements and establish requirements of registering providers without a license who will be permitted to provide healthcare services in the State of Arizona.

The Board considered the draft correspondence and draft applications for approval and submission to the Governor's Office and then to DHS.

MOTION: Vice-Chairman Gillard moved to approve the proposed draft correspondence and the draft application for emergency temporary licensure.

SECOND: Dr. Krahn

Ms. Bain questioned whether there was a timeframe for which the waivers would expire and whether the applicants would be vetted through the regular process as time permits after receiving approval for the emergency temporary license. Executive Director McSorley stated that if approved, the emergency temporary license would expire after 90 days or at the time that the Governor rescinds the declared state of emergency, whichever comes first. AAG Smith pointed out that pursuant to the DHS Administrative Order, the license expires on the date that the declaration emergency issued by the Governor is terminated. Executive Director McSorley reported that the Board has received some inquiries as to whether this type of license is currently available. Dr. Paul noted that the Board would maintains the ability to deny a license application. Executive Director McSorley stated that the denial would be considered an appealable Executive Director action, and would be forwarded to the Board for further review and consideration. Dr. Beyer stated that he was surprised that people were already attempting to apply for this type of licensure given the early stage of the crisis. Executive Director McSorley stated that while in the current contingency phase, it is in preparation for the potential need for additional physicians.

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

VOTE: 8-yay, 0-nay, 1-abstain, 0-recuse, 1-absent.

MOTION PASSED.

G. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING PRESCRIBING CONCERNS AND ISSUES AS A RESULT OF COVID-19, INCLUDING THE PRACTICE OF TELEMEDICINE.

Dr. Krahn stated that she requested this item be placed on the Board's agenda in order for the Board to discuss and think through the issues related to prescribing, particularly controlled substances. She stated that the Board has expectations for prescribers to follow proper protocols when prescribing controlled substances, including querying the Controlled Substance Prescription Monitoring Program ("CSPMP") database as well as adequate recordkeeping. Dr. Krahn proposed that the Board prepare a statement to make physicians aware that while modifications of general practice procedures are occurring during the state of emergency, the Board expects physicians to return to generally accepted standards after the state of emergency is terminated.

AAG Smith informed the Board regarding the current provision of the Medical Practice Act governing telemedicine. She stated that A.R.S. § 32-1401(27)(tt) regards the prohibition of a physician from prescribing a prescription-only device or medication unless they have either an existing physician-patient relationship or have conducted a physical mental health status examination of the patient. According to statute, the examination may occur through a real-time telemedicine encounter. AAG Smith added that part of the Board's review of cases is to consider the circumstances under which the physician was acting in determine whether or not the standard of care has been violated.

Dr. Krahn stated that she was concerned regarding when the Board would expect physicians to return to the usual practice standards as there may be a difference of opinion as to when the state of emergency will end. AAG Smith informed the Board that there is a formalized process of declaring a state of emergency and then the Governor will formally rescind that declaration once the emergency situation has concluded, which will end the temporary measures put in place during the time of the declared crisis. AAG added that the Board had the ability to publish a Substantive Policy Statement for guidance to articulate the Board's expectations of the regulated community. Chairman Farmer commented that the telemedicine statutes appear conducive to what people need to do and the Board would apply the same standard of reasonable and prudent practice in reviewing any cases.

H. ADJOURNMENT

MOTION: Vice-Chairman Gillard moved for adjournment.

SECOND: Dr. Figge

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

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

MOTION PASSED.

The Board's meeting adjourned at 3:55 p.m.



Patricia E. McSorley
Patricia E. McSorley, Executive Director