



Arizona Medical Board

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DRAFT MINUTES FOR THE PHYSICIAN HEALTH PROGRAM COMMITTEE TELECONFERENCE Held via Zoom on Monday, March 15, 2021 1740 W. Adams St, Board Room 4100, Phoenix, AZ 85007

Committee Members

Lois E. Krahn, Chair
Jodi A. Bain, Esq.
R. Screven Farmer, M.D.
Myles A. Whitfield, P.A.-C

A. CALL TO ORDER

Chairwoman Krahn called the Committee's meeting to order at 3:03 p.m.

B. ROLL CALL

The following Committee members participated in the virtual meeting: Chairwoman Krahn, Ms. Bain and Dr. Farmer. The following Committee member was absent: PA Whitfield.

ALSO PRESENT

The following Board staff and Assistant Attorney(s) General participated in the virtual meeting: Patricia McSorley, Executive Director; Kristina Fredericksen, Deputy Director; Raquel Rivera, Investigations Manager; Michelle Robles, Board Operations Manager; and, Andrea Cisneros, Minutes Administrator. Carrie Smith, AAG, also participated in the virtual meeting.

C. GENERAL CALL TO THE PUBLIC

No individuals addressed the Committee during the Call to the Public.

D. APPROVAL OF MINUTES

- October 22, 2019 Physician Health Program ("PHP") Committee Meeting

MOTION: Ms. Bain moved for the Committee to approve the October 22, 2019 PHP Committee Meeting.

SECOND: Dr. Farmer

VOTE: The following Committee members voted in favor of the motion: Chairwoman Krahn, Ms. Bain and Dr. Farmer. The following Committee member was absent: PA Whitfield.

VOTE: 3-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

E. REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATION REGARDING REQUEST FOR DEVELOPMENT OF FAQs FOR REPORTABLE MENTAL HEALTH TREATMENT

The Committee discussed this topic in conjunction with Agenda Item No. F regarding the Board's confidential health questions on initial and renewal applications.

Dr. Jasleen Chhatwal, President, Arizona Psychiatric Society, participated in the virtual meeting during the Board's consideration of this item, and asked the Committee for guidance relating to the confidential questionnaire included in license applications. Dr. Nick Ahrendt, Chair of the Disaster Response Committee for the Arizona Psychiatric Society, also participated in the virtual meeting, and suggested that the wording of the questions included in the confidential questionnaire be modified to clarify what is reportable and what should be brought to the Board's attention in relation to mental health.

In response to a Committee member's question, AAG Smith clarified that the confidential questionnaire was not a direct function of the Board's statutes, but were set forth in rule, namely R4-16-201. She stated that any modifications would likely require a formal rule change. Chairwoman Krahn commented that she believed the intent of the question is to determine whether the individual has self-awareness and judgment in order to make necessary medical decisions. The Committee reviewed the exact wording included in the confidential licensing questionnaire:

"Have you received treatment within the last five years for use of alcohol or a controlled substance, prescription-only drug, or dangerous drug or narcotic or a physical, mental, emotional, or nervous disorder or condition that currently affects your ability to exercise the judgment and skills of a medical professional?..."

Dr. Farmer stated that he believed the intent of the question relates to whether the condition currently affects the individual's ability to practice safely, and spoke in support of establishing FAQs to help provide clarity. Dr. Chhatwal offered to collaborate with the Board to develop the FAQs. Dr. David Beyer opined that the language of the question is complicated in that it includes a number of conditions that he suspects have been added over time due to some circumstance that warranted modification. He stated that the language could be clearer rather than conflating mental health, physical health and substance abuse issues. Chairwoman Krahn noted the disclaimer included beneath the confidential question, and questioned whether this was included to better clarify what should be reported. Board staff confirmed that in the event the Committee recommended modifications, the Board's approval was required before proceeding with the formal rule making process. The Committee also noted that the Board is currently in the process of reviewing and changing its rules, and that this topic could be included in that review.

Dr. Eric Lott stated that individuals applying for licensure may be in different phases of treatment/recovery, and questioned whether the Board has researched what other states have done in relation to safe haven laws. Teri Harnisch, Executive Director, Arizona Psychiatric Association, referred the Committee members to the letters they submitted that were jointly signed by a number of associations and organizations as well as individual providers for the call for comments on review of Article 2, and stated that she was hopeful for the potential to address this topic through the same rule making process with further discussions. Dr. Michel Sucher spoke in favor of looking into the issue of safe haven as well as what other state PHP programs are currently doing.

Dr. Chhatwal stated that mental health conditions should be considered on equal footing with physical health conditions. She stated that naming those disorders individually and considering them more impairing does a disservice to physicians in the community. Dr. Chhatwal added that the goal is to encourage physicians to seek help in a timely manner, and stated that the time frame of five years serves no purpose and is not supported by medical or psychiatric literature. She asked the Committee to consider developing a clearer reporting process to ensure that individuals are practicing in a healthy way rather than making the questions more burdensome to physicians who may not yet be at a place of impairment and prevent them from seeking help timely.

Chairwoman Krahn stated that she believed the five years mirrored the five years that is often used as a period of physician monitoring for individuals who have a severe substance use disorder. She proposed modifying the confidential questionnaire to separate out into three different questions to individually address substance use, physical disorders and psychiatric disorders to clarify what should be reported. Dr. Farmer asked for staff to report any data gathered regarding the type of responses the Board has received with regard to the confidential questionnaire. Executive Director McSorley reported that the Committee was provided a copy of an article that compared the questions for each state and graded them based on where they fell within the recommendations from the FSMB. She stated that it was recommended to remove the five year time frame from the question.

Ms. Rivera reported that there are currently 76 physicians participating in monitoring, 47 of which are being conducted through Community Bridges and 29 through Gateway. She stated that the Board currently has 9 approved assessors and 2 approved monitors, and that information regarding monitoring has been made available on the Board's website. Ms. Rivera further reported on investigation statistics captured from January 1, 2020 to March 8, 2021 relating to cases that involved substance abuse allegations, quality of care allegations, and mental health issues. Of the cases reviewed during that time period, it was discovered that none of the physicians previously disclosed having a condition that may affect their ability to practice safely. Ms. Rivera explained that answering a licensing question in the affirmative does not automatically disqualify an individual from licensure. She stated that the information is reviewed and at times additional information is requested and determination is made as to whether an evaluation or assessment is warranted.

Ms. Rivera reported that cases involving medical conditions or psychiatric diagnoses take longer to investigate, which speaks to the delicate fashion with which it is handled by Board staff. She stated that physicians are not rushed to treatment if they do not feel that they are ready and that in matters involving a licensee that is found unsafe to practice, a non-disciplinary Practice Limitation is entered into with the Executive Director while the requested exams/evaluations are taking place. Ms. Rivera further reported that data gathered relating to the confidential licensing questionnaire showed that 43 renewals included affirmative answers, 16 of which disclosed conditions or psychiatric illnesses, and ten were processed without investigations as the information was previously disclosed to the Board on licensing applications.

Chairwoman Krahn clarified that the Board needs to protect the public, particularly when there are complaints that involve concerns about patient care and it is in the setting of a provider who has a suspected or known illness. She stated that the Board also wants to support physicians practicing medicine so long as it is being done in a safe manner. Dr. Krahn questioned whether separating the confidential questionnaire into three different parts would be helpful provide more clarify on what is to be reported. Dr. Chhatwal stated that this would be an improvement to the current question and will make it a level playing field among the different conditions. She stated that FSMB's policy indicated that it is not in line with ADA to ask about prior health history if it does not impact functioning. Dr. Faria expressed her excitement for organizations discussing the issues related to mental health and physicians' access to resources without being afraid to come forward and seek the help that is needed.

The Committee members thanked the various stakeholders participating in today's proceedings, and discussed directing the Executive Director and AAG to engage with stakeholders and create some potential language for the questions that could be considered by the Committee prior to seeking Board approval. The Committee also discussed creating FAQs and determining whether the time frame of five years should be removed from the confidential questionnaire. Chairwoman Krahn stated her appreciation for the input received from stakeholders as well as Board staff and stated that she looked forward to revisiting these discussions at a future meeting.

F. REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATION REGARDING AMB'S CONFIDENTIAL HEALTH QUESTIONS ON THE INITIAL AND RENEWAL APPLICATIONS

This item was discussed under Agenda Item No. E.

G. REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATION ON ADDRESSING THE USE OF MARIJUANA BY LICENSED PHYSICIANS

The Committee recognized that marijuana has been approved for recreational use in the State of Arizona, and discussed how this will affect the regulated community while ensuring that physicians are able to provide safe care without impairment due to substance use.

Ms. Rivera reported that Board staff's research included reaching out to Colorado and Washington PHP programs to inquire as to how they are addressing this issue since marijuana has been approved for recreational use in their states. She summarized that both states treat marijuana use similar to any other intoxicant. While participating in PHP, individuals are held to an abstinence standard and are warned that while marijuana is legal in their state, there are risks for health care professionals. The Colorado PHP has policies relating to marijuana use for licensees and medical students, which places those individuals on notice that use of marijuana will not be tolerated during monitoring and will be classified as a violation. The Washington PHP policy on marijuana use provides that a positive marijuana drug screen result would be considered a violation of the individual's monitoring agreement.

Andie Vack, Associate General Counsel, Banner Health, questioned situations involving a physician consuming marijuana on their own time and then test positive upon a drug screen without any reports or concerns relating to the physician's care or impairment. She also questioned whether employers are required to report to the Board when an individual tests positive for THC upon pre-employment screening. Ms. Rivera clarified that individuals have a duty to report if there are concerns that a physician is impaired or not safe to practice. She stated that there is no objective testing available at this time to determine when the marijuana was last consumed. Ms. Rivera explained that these matters are reviewed on a case by case basis similar to the Board's other investigations and PHP process, and that a determination is made as to whether treatment or monitoring is indicated.

Dr. Farmer stated his appreciation for Ms. Vack bringing this real-life scenario to the Committee's attention. He commented that it was premature for the Committee to imply that reporting is required for positive marijuana drug screens as it is currently unclear what THC level would constitute impairment. Chairwoman Krahn stated that the questions posed to the Committee relating to marijuana use will remain unresolved until the Committee has had an opportunity to conduct further research and obtain additional information/data regarding recreational marijuana use and the duty to report.

H. PRESENTATION AND INTRODUCTION OF THE ARIZONA MEDICAL ASSOCIATION'S PHYSICIAN LOUNGE PROGRAM

Juliana Stanley, MBA, CMPE, Director of Member Experience & Practice Solutions, Arizona Medical Association; and, Jennifer Hartmark-Hill, M.D., FAAFP, Vice President, Arizona Medical Association, participated in the virtual meeting and presented a slideshow to the Committee regarding the Physician Lounge Program offered by the Arizona Medical Association ("ArMA") as a physician peer support program, which launched in October of 2020.

Dr. Farmer questioned how the program navigates difficult situations involving duty to report requirements pursuant to Arizona statute. Dr. Hartmark-Hill explained that while they have yet to encounter such a dilemma, there are disclosures made during the initial peer-to-peer conversation. Ms. Stanley clarified that the peer-to-peer connection is not considered a physician-patient relationship and that there are other professional resources available to which participants are referred when further assistance is needed.

Dr. Sucher questioned whether participants had the ability to remain anonymous. Ms. Stanley reported that participants have the option to provide their name, their initials, or remain completely anonymous during their interactions with peers through the program. Dr. Monica Faria questioned the mechanism for establishing mentorships and whether individuals were assigned to other individuals randomly. Dr. Hartmark-Hill explained that the intention is to connect individuals with other individuals that are like-minded and have similar shared experiences to allow for a rich and rewarding mentorship experience.

Chairwoman Krahn questioned how the AMB or PHP Committee could assist ArMA to help them accomplish their goals for this important program. Dr. Hartmark-Hill emphasized the importance of awareness of the program and connecting with peers, especially in light of the current circumstances due to COVID. Ms. Stanley stated that making physicians aware of the program's availability would be helpful to connect individuals that are walking the same path. Ms. Stanley added that isolation has been a common topic of discussion, particularly over the course of the past year. Chairwoman Krahn commented that it is important to increase awareness of the program and to encourage individuals to seek help.

Dr. Farmer suggested including information about the program in the Board's email bulletin to its licensees. The Committee observed that this information was disseminated via the bulletin email in October 2020 when the program initially launched. Executive Director McSorley informed the Committee that the information has been and will continue to be disseminated via the bulletin email for further outreach to licensees. Dr. Beyer commented that this program is exactly the type of service that may not be considered until such services are needed, and stated that he supported disseminating the information again to the licensed community through the bulletin email.

Chairwoman Krahn thanked the representatives and participants for their presentation and input, and stated that she looked forward to receiving an update on the program at a future meeting of the Committee.

I. REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATION RELATED TO JOURNAL OF SUBSTANCE ABUSE TREATMENT ARTICLE: ADAPTATIONS TO SUBSTANCE USE DISORDER MONITORING BY PHYSICIAN HEALTH PROGRAMS AND RESPONSE TO COVID-19

Chairwoman Krahn recognized that PHP programs have modified their delivery methods in order to fulfill their obligations in the setting of COVID. She stated that switching to telehealth services has been necessary and successful. Chairwoman Krahn added that telehealth services should be encouraged as a method for providing such services, so long as these services can be carried out in a high quality manner.

J. UPDATE ON PHYSICIAN HEALTH PROGRAM PARTICIPATION AND PROVIDER STATUS

Ms. Rivera reported on PHP statistics under Agenda Item No. E. She additionally reported that the PHP section on the Board's website provides information relating to the types of agreements entered into by licensees, as well as explanations regarding what takes place during assessments and describes what services are provided along with prices. Ms. Rivera also reported on outreach efforts including presentations to local medical societies and organizations that provide an overview of the Board's investigations and PHP departments.

The Committee thanked Ms. Rivera for her continued hard work and efforts.

K. UPDATE ON REQUEST FOR INCREASED MONITORS FOR PHYSICIAN HEALTH PROGRAM

Ms. Rivera reported that the Board received requests from two Board-approved assessors who are interested in becoming Board-approved PHP monitors. The Committee recognized that the Board currently has two approved monitors. Executive Director McSorley informed the Committee that the two individuals requesting approval to become monitors are located in the metropolitan area and that access to care has been broadened by the availability of telehealth services. Chairwoman Krahn emphasized the importance of having statewide reach for these services and the inclusion of culturally competent care.

L. TOPICS FOR FUTURE MEETINGS

The Committee discussed agendaizing the following topics at a future meeting:

- Additional Board-approved PHP monitors
- Pre-employment drug screens
- The confidential licensing questionnaire

M. ADJOURNMENT

MOTION: Dr. Farmer moved for the Committee to adjourn.

SECOND: Ms. Bain

VOTE: The following Committee member voted in favor of the motion: Chairwoman Krahn, Ms. Bain and Dr. Farmer. The following Committee member was absent: PA Whitfield.

VOTE: 3-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Committee's meeting adjourned at 5:02 p.m.



Patricia E. McSorley, Executive Director