



## Arizona Medical Board

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### **FINAL MINUTES FOR BOARD REVIEW COMMITTEE A TELECONFERENCE MEETING Held on Wednesday, August 3, 2022 1740 W. Adams St., Board Room A • Phoenix, Arizona**

#### ***Committee Members***

R. Screven Farmer, M.D., Chair

Jodi A. Bain, M.A., J.D., LL.M.

James M. Gillard, M.D., M.S., F.A.C.E.P., F.A.A.E.M.

Pamela E. Jones

Lois E. Krahn, M.D.

Constantine Moschonas, M.D., F.A.A.N.

#### **GENERAL BUSINESS**

##### **A. CALL TO ORDER**

Chairman Farmer called the Committee's meeting to order at: 8:34 a.m.

##### **B. ROLL CALL**

The following Committee members participated in the virtual meeting: Dr. Farmer, Dr. Gillard, Ms. Jones, Dr. Krahn and Dr. Moschonas.

The following Committee member was absent: Ms. Bain.

##### **ALSO PRESENT**

The following Board staff participated in the virtual meeting: Kristina Jensen; Deputy Director; Kathleen Coffey, MD; Medical Consultant; Heather Foster, Board Operations Department; and, Alicia Cauthon. Elizabeth Campbell, Assistant Attorney General ("AAG") was also present.

##### **C. OPENING STATEMENTS**

Chairman Farmer read the civility policy for the record.

##### **D. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA**

No individuals addressed the Committee during the Public Statements portion of the virtual meeting.

##### **E. APPROVAL OF MINUTES**

- April 6, 2022 Board Review Committee A Teleconference

**MOTION:** Dr. Gillard moved for the Committee to approve the April 6, 2022 Board Review Committee A Teleconference.

**SECOND:** Ms. Jones.

**VOTE:** The following Committee members voted in favor of the motion: Dr. Farmer, Dr. Gillard, Dr. Krahn, Ms. Jones and Dr. Moschonas. The Following Committee member was absent: Ms. Bain.

**VOTE:** 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

**MOTION PASSED.**

## LEGAL MATTERS

### F. FORMAL INTERVIEWS

1. THIS CASE HAS BEEN PULLED FROM THE AGENDA.

### G. FORMAL INTERVIEWS

1. MD-17-1099A, SCOTT M. BRANNAN, M.D., LIC. #45866  
Dr. Brannan and Counsel Adam Anderson participated in the meeting virtually.

Board staff summarized that the case was initiated after receiving a referral from the DEA that Dr. Brannan's employer made several allegations against him. During the course of the investigation Board staff determined that Dr. Brannan ordered anabolic steroids online to self-administer, inappropriately obtained controlled substances through his stepfather who did not maintain any records to support that the medications were for a prescribed course of treatment, and that Dr. Brannan failed to disclose the familial relationship with his treating provider to the PHP Assessor. Board staff also determined that Dr. Brannan admitted to prescribing controlled medications to two individuals without maintaining any medical records. Additionally, Dr. Brannan prescribed controlled substances to his wife from without maintaining any medical records. A Medical Consultant (MC) reviewed the patient care provided and recommended a second PHP assessment. After the second PHP assessment, SIRC reviewed the case again and noted that in this assessment, Dr. Brannan denied prescribing medication to himself, to appear as his stepfather had prescribed it. However, the assessor noted multiple 30-day prescriptions with overlapping fill dates by Dr. Brannan's psychiatrist. It was also noted that Dr. Brannan's description of prescribing to the two individuals differed from what was reported to Board staff. The assessor determined that Dr. Brannan did not meet the criteria for a substance use disorder and determined he was safe to practice contingent upon entering PHP for one year, to include psychiatric treatment with a plan to taper Zolpidem. In October 2021, Dr. Brannan entered into an interim consent agreement for PHP monitoring and has been compliant to date. SIRC stated in their review that based on the multiple violations identified, including a pattern of failing to create or maintain medical records, inappropriate prescribing of controlled substances to his spouse and two other individuals, and continued concerns related to controlled substance diversion, as well as a submission of misleading and false information, SIRC determined that this case rises to the level of discipline and requires remediation.

Regarding patient care, Board staff summarized that Dr. Brannan's clinical issues started on March 21, 2017. Patient FN underwent an urgent arteriography and a reintervention for treatment of critical limb ischemia on the right side performed by Dr. Brannan at the outpatient surgical center. The Board's MC reviewed the case and determined that Dr. Brannan deviated from the standard of care by failing to timely transfer the patient to a higher level of care. The medical consultant stated that in Dr. Brannan's zeal to successfully restore arterial flow, he ignored signs of deterioration that should have prompted him to initiate transfer of care to a hospital sooner. The delay and potentially increased blood loss very well may have limited the patient's ability to withstand this complication and survive the event. In addition, the medical consultant noted that the lack of adequate communication between Dr. Brannan and other providers and the timeliness of procedural documentation was egregious.

Dr. Brannan stated in his opening statement that there were discrepancies in the MC's report regarding what occurred. Dr. Brannan explained that the procedure notes were not completed by him as he was asked to leave the lab and his access to the EMR was removed. Dr. Brannan stated that he was not aware of who wrote or signed the note for FN's surgery. Dr. Brannan informed the Board of his relationship with Dr. Peters and stated that he never used Dr. Peters' DEA number to prescribe medications for himself. Dr. Brannan noted that he did not buy anabolic steroids from overseas and that this information was inaccurate. Dr. Brannan explained his poor documentation for writing prescriptions was due to personal reasons, an unhealthy employment situation and that he lacked knowledge regarding who he could prescribe to. Dr. Brannan explained that

these issues have been resolved and noted the changes in his practice that he has made to remedy these concerns. Dr. Brannan stated that he does not have a substance abuse problem with medications or alcohol.

In his opening statement, Mr. Anderson stated that censure is not warranted in this case. Most allegations have been disregarded or haven been proven untrue. Mr. Anderson noted that as soon FN's care was escalated, she was found stable enough to have the same procedure performed on her that Dr. Brannan had just recently performed. Mr. Anderson admitted that Dr. Brannan's documentation on his prescribing for CH and DC is lacking and that there was no concern for diversion during this time frame. Both PHPs found that there are no substance abuse issues and therefore no reason to restrict his practice. Mr. Anderson requested that disciplinary action not be taken.

During questioning, Dr. Brannan explained his current and previous use of Ambien. Dr. Brannan explained why he obtained prescriptions from multiple prescribers and that the prescriptions may or may not have overlapped due to transferring his treatment to a new psychiatrist. Dr. Brannan stated that he was unable to explain the discrepancies in his CSPMP report but noted that he was unable to fill multiple medications as he is only allowed to pick up one prescription in a 30-day period. Dr. Brannan stated that the multiple prescriptions from Dr. Peters may have been automatic refills. Dr. Brannan explained why he had to find a new physician, Dr. Martin, as his relationship with Dr. Schulte had become contentious.

Regarding prescribing controlled substances to immediate family members, Dr. Brannan confirmed that he prescribed to his ex-wife and that he prescribed medication to Dr. Peters after he placed his medication port. Dr. Brannan agreed that he was Dr. Peters' patient and Dr. Peters was his patient. Dr. Brannan stated that he was not aware of the Medical Practice Act that prohibits a physician from prescribing to close family members, including a father-in-law.

Regarding patient DC, a co-worker, Dr. Brannan explained that her life at the time was very difficult and encouraged her to get treatment from Dr. Martin. While DC received treatment from Dr. Martin, Dr. Brannan confirmed that he did prescribe Zolpidem and that DC had only informed him that she was prescribed an anti-depressant and asked for a prescription of Ambien, which he did prescribe. Dr. Brannan explained that he did not think she was on anything that would interfere with the Zolpidem based on what she had told him and admitted he did not document the prescription for DC.

Dr. Brannan explained his treatment of FN and that towards the end of the care FN's blood pressure dropped. FN did respond to fluid resuscitation, but then it dropped again so he determined that she needed to be transferred to a hospital. Dr. Brannan noted that he was on the phone with the trauma surgeon at Banner, and this is why he disagreed with the concern about a lack of communication. Dr. Brannan explained his reasoning for informing the trauma surgeon that FN needed fluid. Dr. Brannan stated that he did not write a note about his conversation with the trauma surgeon but that the trauma surgeon did. Dr Brannan explained that it was never stated that he was on leave or suspended, he was instructed not to complete cases at the lab. Dr Brannan informed the Board of the contentious situation between Dr. Rainwater and that his brother also worked for him. In July of 2017 Dr. Brannan stated he looked for other employment.

Dr. Brannan explained why he was prescribed testosterone and that his drug screen that was positive for a steroid may have been due to a metabolite of the Trenabol that he had purchased online.

In closing, Dr. Brannan stated that a long time has passed since 2016 and he since improved in his professional life. Dr. Brannan stated that he takes responsibility for the errors in documentation and the concern regarding his Ambien use has been resolved.

In closing, Mr. Anderson reiterated that Dr. Brannan has taken the steps to improve and the concerns raised in the investigation have not persisted.

During deliberation, Dr. Krahn opined that there has been unprofessional conduct for seven of the eight cited deviations. Dr. Krahn stated that she did not find clear and convincing evidence that regarding the medical records as it appears Dr. Brannan was not able to access the records the very next day following the procedure and the delay in writing his note has been explained.

**MOTION: Dr. Krahn moved for findings of unprofessional conduct in violation of A.R.S. § 32-1401(27)(e), (g), (h), (j), (r), (ii), (kk) and (tt) for reasons as stated by SIRC.**

**SECOND: Dr. Gillard.**

Dr. Gillard noted that every physical examination must be done for every prescription made and there were individual prescriptions without medical records and opined that the violation regarding medical records was violated.

Dr. Krahn agreed that the records violation for FN were addressed however there was a violation for DC.

Ms. Campbell noted that prescriptions for Ambien were written for DC and CH that were not documented.

**VOTE: The following Committee members voted in favor of the motion: Dr. Farmer, Dr. Gilalrd, Dr. Krahn, Ms. Jones and Dr. Moschonas. The Following Committee member was absent: Ms. Bain.**

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.**

**MOTION PASSED.**

Dr. Krahn opined that this was a very serious situation and discipline is warranted. Dr. Krahn commented that there are many issues in this case which is why there were eight violations. Dr. Krahn commented regarding Zolpidem and Ambien that it can be difficult to identify those who misuse and abuse Ambien and noted that it is not well understood in the conventional addiction community. Dr. Krahn expressed concern regarding the physician's misuse of Ambien and was obtaining it from multiple sources and opined that there is a substance abuse problem.

**MOTION: Dr. Krahn moved for a Draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure and One Year Probation to include an inpatient evaluation. Respondent shall follow all evaluation recommendations, including any recommendation for a longer period of probation. Within six months, complete PBI's Medical Ethics and Professionals Course (ME-22). PBI shall provide an AIR letter to the Board upon completion of the CME coursework. The CME hours shall be in addition to the hours required for license renewal. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board. Dr. Brannan's request for termination shall be accompanied by proof of successful completion of the CME.**

**SECOND: Dr. Gillard.**

Dr. Gillard commented that there was prescribing done outside the physician's realm of practice and suggested a possible restriction be put in place that he cannot prescribe to patients outside the radiology suite. Dr. Farmer commented that as standard of care if prescribing outside one's specialty you would need to still meet the standards of doing a history and physical exam and documenting it. These standards of good practice were not respected in this case. Dr. Moschonas agreed with Committee members comments regarding prescribing outside of one's specialty and noted that memory lapses can occur with Ambien and that can be a concern when a physician is on call. Dr. Gillard commented that given these comments in agreement with the current motion as it stands.

**VOTE: The following Committee members voted in favor of the motion: Dr. Farmer, Dr. Gilalrd, Dr. Krahn, Ms. Jones and Dr. Moschonas. The Following Committee member was absent: Ms. Bain.**

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.  
MOTION PASSED.**

## **H. FORMAL INTERVIEWS**

1. MD-21-0362A, RENEE GALLO, M.D., LIC. #33715  
Dr. Gallo and Counsel Steven Perlmutter participated virtually.

Board staff summarized that this case was initiated after receiving a complaint alleging that Dr. Gallo prescribed psychotropic medication to her son (RG) outside of her scope of practice and interfered with her son's inpatient psychiatric treatment. Dr. Gallo reported that she had prescribed an MAO inhibitor, phenelzine, to RG on one occasion only. The treatment of depression and the use of MAO inhibitors are well within her knowledge and scope of practice. Dr. Gallo report taking extensive CME in the treatment of depression. Dr. Gallo did not maintain any records relating to prescribing to her son. Board staff obtained pharmacy records and identified that despite her report of one-time prescribing Dr. Gallo also prescribed Phenelzine with refills on two occasions. Dr. Gallo also prescribed antidepressants and antipsychotics to RG dating back to 2008. Board staff noted that a treating provider diagnosed RG with Bipolar disorder and noted that he needed to be on mood stabilizing medications rather than antidepressants. Board staff determined that Dr. Gallo failed to disclose that she had prescribed phenelzine on multiple occasions to RG in addition to other medications for the treatment of depression and possibly anxiety. SIRC reviewed the case and determined that the long-term prescribing of medications to RG without creating any medical records or documenting an examination rises to the level of discipline and requires remediation. SIRC noted that although some of the care in this case predates the four-year statute of limitations, the violations of Board statute continue throughout the applicable timeframe.

During her opening statement, Dr. Gallo apologized for her mistake in writing prescriptions to her son who had come to her for help with his depression. Dr. Gallo stated that she did encourage him to seek help from other physicians and noted that he has tried other forms of therapy like exercise, acupuncture, and stimulation with no progression of improvement. Dr. Gallo admitted that when drafting a response with her counsel she only referred to one encounter of writing a prescription for her son even though she has written many more and is aware that the Board does have access to the CSPMP report to see she has written more prescriptions for her son RG. Dr. Gallo's informed the Board that she has completed a PBI course in boundaries to obtain perspective and accepts full responsibility for her actions.

In his opening statement, Dr. Perlmutter stated that Dr. Gallo has no history of disciplinary action and clarified that Dr. Gallo admits to not keeping records when treating her son and that she did not conduct a physical and history but was very close to her son. Dr. Gallo has experience treating patients with depression and thus did not practice out of her realm of medicine. Dr. Gallo never wanted to treat him for depression, but her son refused to see another physician. Dr. Gallo completed a boundaries course to help her reevaluate her situation and to make sure it will never happen again. Dr. Perlmutter requested that the board issue an Advisory Letter in lieu of discipline.

During questioning, Dr. Gallo informed the Board of RG's medical history and treatment and explained that since he had stopped seeking treatment, she felt she needed to help him. Dr. Gallo stated that she first prescribed Seroquel to help him sleep but stopped due to the side effects. Dr. Gallo confirmed that she was aware of RG partaking in marijuana use once a week, but RG told her he never took spice and has never used methamphetamines in his life. Dr. Gallo confirmed that she did not review the CSPMP report to see if her son was receiving any controlled substance medications from other physicians. Dr. Gallo's reported that her son is now seeing a primary care physician. Dr. Gallo further explained that she would have long discussions with RG prior to placing him on new medication like Phenelzine, as it required a strict diet and the risks of combining it with other medications and street drugs.

In closing, Dr. Perlmutter stated that Dr. Gallo admits she should not have treated her son. Dr. Gallo advocated for her son and did not engage in harmful conduct. She took the PBI course on her volition and will not treat her family members again. Dr. Perlmutter reiterated his request for the issuance of advisory letter.

**MOTION: Ms. Jones moved for findings of unprofessional conduct in violation of A.R.S. § 32-1401(27)(e), (r), (kk) and (tt) for reasons as stated by SIRC.**

**SECOND: Dr. Krahn.**

Dr. Gillard stated that nothing in A.R.S. 32-1401(27) states you cannot treat your family members, but state and federal statutes do prohibit prescribing scheduled medication to family members. There is not a statute that state you cannot treat outside your area of expertise. Dr. Gillard opined that that there is unprofessional conduct regarding records but opined that the physician is knowledgeable of the medications prescribed. Dr. Krahn agreed and suggested to amend the motion by the lack of medical records (e) violation. Dr. Mochonas agreed that there was a lack of documentation and commented that she needed to document her rationale for the medications and blood work needed to be documented somewhere.

AAG Campbell noted that the Board can vote on the motion as is, modify the motion or the first and seconder can withdraw their motion.

Ms. Jones noted that there were misleading statements to the Board. Per the CSPMP she prescribed to her son RG many times, thus (kk) violation is applicable. Ms. Jones also stated that the (tt) violation was applicable because Dr Gallo could have caused harm to her son who lives alone and who refused to seek out professional help.

Dr. Wolf commented that since there are no records, (tt) is sustainable since no physical exam was completed.

Dr. Krahn commented that physicians may be able to use a mental status examination in lieu of a physical examination, but there are no medical records to prove how carefully she assessed his mental status. Ms. Jones commented that she does not question the physician's credentialing but stands by the sustained violations and that given there are no medical records or urine drug testing monitoring there could have been harm.

**VOTE: The following Committee members voted in favor of the motion: Ms. Jones. The following Committee members opposed: Dr. Farmer, Dr. Gillard, Dr. Krahn and Dr. Moschonas. The Following Committee member was absent: Ms. Bain.**

**VOTE: 1-yay, 4-nay, 0-abstain, 0-recuse, 1-absent.**

**MOTION FAILED.**

**MOTION: Dr. Gillard moved for findings of unprofessional conduct in violation of A.R.S. § 32-1401(27)(e) for reasons as stated by SIRC.**

**SECOND: Dr. Moschonas.**

Ms. Jones opined that misleading statements were made by the physician regarding the prescriptions that had been written by the physician. Dr. Krahn noted that a mental status examination was mentioned as an alternative. Dr. Farmer stated that the standard for issuing disciplinary action is clear and convincing evidence and opined that there is not enough evidence to support that the mental status examination did not occur.

**VOTE: The following Committee members voted in favor of the motion: Dr. Farmer, Dr. Gillard, Dr. Krahn and Dr. Moschonas. The following Committee member voted against the motion: Ms. Jones. The following Committee member was absent: Ms. Bain.**

**VOTE: 4-yay, 1 -nay, 0-abstain, 0-recuse, 1-absent.**

**MOTION PASSED.**

Ms. Jones commented that the issue is the physician's long-term prescribing to her son and the fact that there wasn't another treating physician monitoring him. Ms. Jones noted completions of the PBI course was mitigating. Ms. Jones commented that given the Committee's discussion moved for an advisory letter for tracking purposes.

**MOTION:** Ms. Jones moved for Advisory Letter for inadequate medical records. While the licensee has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the board believes that repetition of the activities that led to the investigation may result in further board action against the licensee.

**SECOND:** Dr. Krahn.

Dr. Gillard commented that continued treatment does not violate the medical practice act. Ms. Jones commented that if the physician continues to treat her son that she must maintain medical records. Dr. Farmer acknowledged the burden of what Dr. Gallo went through having a son with significant mental health issues, knowing where the boundaries are and how difficult it can be to find great mental health care. Dr. Krahn commented that this has been a difficult experience for the physician and noted that this was not the preferred pathway the physician wanted.

**VOTE:** The following Committee members voted in favor of the motion: Dr. Farmer, Dr. Gillard, Dr. Krahn, Ms. Jones and Dr. Moschonas. The following member was absent: Ms. Bains.

**VOTE:** 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

**MOTION PASSED.**

## **GENERAL BUSINESS**

### **I. DISCUSSION REGARDING DEBRIEFING ON COMMITTEE PROCESSES**

Committee members discussed rebalancing the Committees due to obtaining new Board members.

### **J. ADJOURNMENT**

**MOTION:** Ms. Jones moved for the Committee to adjourn.

**SECOND:** Dr. Gillard

**VOTE:** The following Committee members voted in favor of the motion: Dr. Farmer, Dr. Gillard, Dr. Krahn, Ms. Jones and Dr. Moschonas. The following Committee member was absent: Ms. Bain.

**VOTE:** 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

**MOTION PASSED.**

The Committee meeting adjourned at: 11:55 a.m.



  
Patricia E. McSorley, Executive Director