



Arizona Medical Board

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DRAFT MINUTES FOR BOARD REVIEW COMMITTEE B TELECONFERENCE MEETING

Held on Friday, October 7, 2022

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

Committee Members

Gary R. Figge, M.D., Chair
Bruce A. Bethancourt, M.D., F.A.C.P.
David C. Beyer, M.D., F.A.C.R., F.A.S.T.R.O.
Katie S. Artz, M.D., M.S.
Laura Dorrell, M.S.N., R.N.
Eileen M. Oswald

GENERAL BUSINESS

A. CALL TO ORDER

Chairman Figge called the Committee's meeting to order at: 11:48 a.m.

B. ROLL CALL

The following Committee members participated in the virtual meeting: Dr. Figge, Dr. Artz, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell and Ms. Oswald.

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 Figge 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

- August 3, 2022 Board Review Committee B Teleconference; including Executive Session

MOTION: Dr. Beyer moved for the Committee to approve the August 3, 2022 Board Review Committee A Teleconference with the noted correction; including Executive Session.

SECOND: Ms. Oswald

VOTE: The following Committee members voted in favor of the motion: Dr. Figge, Dr. Artz, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell and Ms. Oswald

VOTE: 6-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

LEGAL MATTERS

F. FORMAL INTERVIEWS

1. MD-21-0688A, MICHAEL G. WADE, M.D., LIC. #15797
Dr. Wade participated virtually.

Board staff summarized that the case was initiated after receiving notification of a malpractice settlement regarding Dr. Wade's care and treatment of a 54-year-old female with chronic pain, neuropathy, and depression alleging inappropriate prescribing of high dose opioids with subsequent overdose and death. The Medical Consultant (MC) determined that Dr. Wade failed to address aberrant behaviors in violation of the patient's pain contract because of an ongoing pattern of filling controlled substances early, frequent request for other early refills due to being out of town, throwing her medications away, and calling the clinic herself to report her controlled substances were not at the pharmacy. Dr. Wade had discontinued the second benzodiazepine (Ativan) and was tapering her Percocet by decreasing the number of doses by five per month. The MC noted the patient was not honest about her drug use and did not tell Dr. Wade about her family's concerns of addiction. SIRC noted that some of the care predates the four-year statute of limitations, the deviations from the standard of care continue throughout the applicable timeframe. SIRC observed Dr. Wade's previous Board history including a Letter of Reprimand for inappropriate controlled substance prescribing. SIRC noted that the patient died due to an accidental overdose, which SIRC considered an aggravating factor considering the aberrant behaviors displayed and failure to enforce the pain contract.

In his opening statement, Dr. Wade stated that the patient dying from multiple medications is false, she died from an overdose. Dr. Wade explained that the patient was not taking the medication as directed, which he discussed with her at every visit. Dr. Wade noted that this patient had multiple surgeries with no clinical response and the pain could only be treated with medications. The patient had been taking these medications for years and if she did not take them as prescribed it was out of his control. Dr. Wade stated that he had to balance the treatment with medications and her quality of life and had no intent of harm.

During Questioning, Dr. Wade stated that the patient refused to follow the direction of his medical advice. Dr. Wade explained that he was reducing her pain medication levels but admitted to providing her with early refills on a couple of occasions. The patient had chronic pain and no surgical options available. In the past the patient did try other pain-relieving options like epidurals with no relief and her depression was getting worse. Dr. Wade stated that he felt obligated to care for her which included controlling her pain. Dr. Wade informed the Board that he has taken CME on opioid prescribing through the Cleveland Clinic. Dr. Wade explained that he does provide questionnaires to screen for depression yearly to all his patients. Dr. Wade stated that he cared for the patient to the best of his ability.

In closing, Dr. Wade stated that he has closed his practice and he will no longer be practicing once he finds a physician to care for his patients.

During deliberation, Dr. Figge opined that Dr. Wade provided the best care that he could with good intentions and an unfortunate outcome occurred. Dr. Figge noted that there is considerable discussion that could be had regarding how the autopsy report came up with the conclusion that this was an accidental overdose given the patient's full history. Dr. Figge noted that the previous Letter of Reprimand and CME was not a factor in this case.

MOTION: Dr. Figge moved to dismiss this case.

SECOND: Ms. Dorrell.

Dr. Beyer stated that at most this rises to the level of an advisory letter but spoke in favor of dismissal. Dr. Bethancourt opined that this was a difficult situation where the physician had to decide to care for the patient given the risk. Dr. Beyer opined that these are tough patients who need physicians to care for them and many of them have problems that could result in bad outcomes. Ms. Oswald commented that the doctor should have known the patient could potentially harm herself and been more assertive but given the discussion regarding the difficult balance of treating these patients spoke in favor of the motion.

VOTE: The following Committee members voted in favor of the motion: Dr. Figge, Dr. Artz, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell and Ms. Oswald.

VOTE: 6-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

GENERAL BUSINESS

G. APPROVAL OF DRAFT FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

1. MD-21-0347A, WALTER N. SIMMONS, M.D., LIC. #29610

Dr. Beyer noted a minor correction on page 6, line 10.

MOTION: Dr. Beyer moved to approve the Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and Probation requiring compliance with the Tennessee Board Order. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board.

SECOND: Ms. Dorrell.

VOTE: The following Committee members voted in favor of the motion: Dr. Figge, Dr. Artz, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell and Ms. Oswald.

VOTE: 6-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

H. DISCUSSION REGARDING DEBRIEFING ON COMMITTEE PROCESSES

Dr. Figge stated that the committee processes will continue to evolve in the future.

I. ADJOURNMENT

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

SECOND: Ms. Oswald.

VOTE: The following Committee members voted in favor of the motion: Dr. Figge, Dr. Artz, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell and Ms. Oswald.

VOTE: 6-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Committee meeting adjourned at: 12:34 p.m.



Patricia E. McSorley, Executive Director