



Arizona Medical Board

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DRAFT MINUTES FOR ADMINISTRATIVE JOINT LEGISLATION AND RULES COMMITTEE TELECONFERENCE MEETING

Held on Monday, August 29, 2022
1740 W. Adams St., Phoenix, Arizona

Committee Members

Jodi A. Bain, M.A., J.D., LL.M., Chair
Laura Dorrell, M.S.N., R.N.
R. Screven Farmer, M.D.
Gary R. Figge, M.D.
Pamela E. Jones
Lois E. Krahn, M.D.

GENERAL BUSINESS

A. CALL TO ORDER

Chairwoman Bain called the meeting to at 4:10 p.m.

B. ROLL CALL

The following Committee members participated in the virtual meeting: Chairwoman Bain, Ms. Dorrell, Dr. Farmer, Ms. Jones and Dr. Krahn.

The following Committee member was absent: Dr. Figge.

ALSO PRESENT

The following Board staff and Assistant Attorney(s) General participated in the virtual meeting: Patricia McSorley, Executive Director; Kristina Jensen, Deputy Director; Carrie Smith, Assistant Attorney General ("AAG"); and Michelle Robles, Board Operations Manager.

C. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA

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

D. APPROVAL OF MINUTES

- July 25, 2022 Administrative Joint Legislative and Rules Committee

Ms. Jones noted a correction regarding the adjournment vote, as she was absent during that vote.

MOTION: Dr. Farmer moved for the Committee to approve the July 25, 2022 Administrative Joint Legislative and Rules Committee with the requested modification.

SECOND: Ms. Dorrell.

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

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

MOTION PASSED.

E. REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATION REGARDING THE PROPOSED LEGISLATIVE AGENDA

Ms. McSorley reported that these items have been previously discussed by the Board and are now formalized for consideration. If the Committee approves, it can be taken to the full Board for consideration. Ms. McSorley noted that one of the items is a request for additional non-disciplinary action. Letter of Acknowledgement would recognize minor and technical errors. The advisory letter is issued in circumstances where the preponderance of evidence has not been met. This letter would make a distinction as more of a warning that the Board has found that an error has been made or a known complication has occurred and can be used for tracking purposes.

Ms. Jones noted that an advisory letter is non-disciplinary and already used for a minor violation or technical error. The Board's mission is to protect the public and the Board has been respectful of dismissing a case or issuing a non-disciplinary advisory letter or CME. Ms. Jones expressed concern regarding adding another layer that is not needed.

Dr. Farmer explained that the Board used to have a burden of proof of preponderance of evidence to take disciplinary action if the Board felt that more likely than not a violation occurred. This standard has changed to clear convincing. Advisory letter now cover a broad range of thing and now has an implication of one almost getting discipline. Dr. Farmer noted other states various actions as well as hospital setting actions that were reviewed when creating this option for the Board. Dr. Farmer explained that the purpose of this Letter of Acknowledgement is to recognize something occurred in the context of a responsible physician and would be tracked.

Committee members agreed that more tools available to acknowledge an action and track it will better protect the public.

Ms. Bain opined that the language proposed is not a finished product and it is not distinct enough and needs to be fleshed out more.

Ms. Jones noted that the Board has the option to dismiss. The Board deliberates and makes the best decision with the knowledge on hand. Ms. Jones opined there is not much of a difference between the proposed letter and an advisory letter.

Committee members agreed that more in-depth justification and clarification regarding the minor violation and distinguishing what consists of a patter or an isolated event that would result in the proposed letter needs to be worked out before bringing to the full Board.

Ms. Smith clarified opening meeting law and how feedback and communication between committee members and Ms. McSorley should be facilitated.

Ms. McSorley confirmed that once she gets feedback from committee members, she will provide an update for consideration.

Ms. McSorley reported that the legislature did determine that physician wellness programs could be created. The proposed language would allow the Board to fund a program having to do with impairment and suggested using the Board's licensing fees fund the program. The pilot physician wellness program has been provided for consideration.

Ms. McSorley clarified the difference between the PHP and the wellness program. The wellness program would be regarding steps to take before impairment, such as counseling for burnout. Other than establishing where the funding comes from, the program will need established requirements and rules. For example, how many sessions and who would the Board contract with.

Dr. Krahn noted that a wellness program is voluntary while a PHP is not, and would help a person get an assessment if they need one.

Ms. McSorley explained that this is a step for the physician to get help with counseling and wellness concerns before it becomes a problem or impairment.

Ms. Bain suggested that the proposed language needs to be refined and is willing to work with Board staff on this.

Ms. Dorrell opined that this is proactive, preventive, and timely and will help the healthcare workers in Arizona.

Ms. McSorley reported that the third request is to reduce the renewal fee. Ms. McSorley explained that if the Board reduces or cuts our renewal fees in half for a full cycle, we would reduce the cash reserve. The goal is to reduce the reserve fund.

Ms. Bain understood the point but suggested the math and language needs improvement.

Dr. Krahn suggested waiving the licensing fee for the first year to benefit first-time licensees and to potentially offset the physician shortage by providing incentives for those who are graduating from Arizona schools.

Dr. Farmer agreed that this is a great idea and suggested sending this item back for consideration.

Ms. Bain inquired about adding in parameters to give a universal constitutional base.

Ms. Smith noted that there are other attorneys in the AAG's office who can assist with budgeting issues and questions.

Committee members agreed that this would reduce barriers to obtaining an entry license. Committee directed staff to investigate Dr. Krahn's proposal for a fee waiver incentive for initial applicants who did their residency training in Arizona programs.

Ms. Bain reported that the fourth request is to broaden the use of committees.

Ms. McSorley reported that with the way the statute is currently set up allows Committees to review complaints not dismissed by the executive director. The request would be adding the authority to divide into committees consisting of not less than three members, including a public member, to grant and deny licenses and to issue and lift board orders.

Dr. Krahn commented that this gives the Board maximum flexibility but noted that it's at the Board's discretion.

Ms. Smith noted that this is a policy issue that would require a statutory change.

Ms. Bain requested that a quick summary of what was discussed be provided for the next meeting.

F. REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATION REGARDING DRAFT POLICY STATEMENT #17: CLARIFICATION OF AUTHORITY FOR EXECUTIVE DIRECTOR TO GRANT LICENSURE TO APPLICANTS WHO ALLOWED LICENSE TO LAPSE

Ms. McSorley reported that when a physician allows their license to lapse, the Board gets notified and a case is opened. This case is then placed on a Board meeting for consideration and the Board typically issues an Advisory Letter. This policy would allow the Executive Director, provided no other circumstances are present, to grant the license and then take the full investigation to the Board for consideration to take non-disciplinary or disciplinary action for practicing on an expired license.

Dr. Krahn suggested a guardrail that the Executive Director can only grant the license once so that this cannot happen a second time. Committee members discussed the potential benefits and negatives of this policy on physician's renewal cycle and their personal responsibility to renew their license on time.

Ms. Smith confirmed in section four of the policy would require that board staff to verify that no other acts of professional misconduct occurred during the period that the license was expired. The policy also notes that there can be no other adverse information disclosed during the application review process.

Committee members discussed the appropriate timeframe for the lapsed license and agreed on a 60 day timeframe instead of a 90 day timeframe. This would be a one-time only basis. Committee members requested these proposed changes be made before bringing it to the full Board.

Ms. Smith provided the legislative history for the Board breaking into committees to address a case back log.

G. ADJOURNMENT

MOTION: Dr. Farmer moved for adjournment.

SECOND: Dr. Krahn

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

VOTE: 3-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

The meeting adjourned at 5:55 p.m.



Patricia E. McSorley, Executive Director