



## Arizona Medical Board

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### **FINAL MINUTES FOR BOARD REVIEW COMMITTEE A MEETING Held on Wednesday, April 5, 2023 1740 W. Adams St., Board Room A • Phoenix, Arizona**

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

Gary R. Figge, M.D., Chair

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

Bruce A. Bethancourt, M.D., F.A.C.R., F.A.S.T.R.O.

R. Screven Farmer, M.D.

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

Eileen M. Oswald

## **GENERAL BUSINESS**

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

Chairman Figge called the Committee's meeting to order at 12:42 p.m.

### **B. ROLL CALL**

The following Committee members were present: Dr. Figge, Dr. Farmer, and Dr. Moschonas.

The following Committee member participated telephonically: Ms. Oswald.

The following Committee members were absent: Ms. Bain and Dr. Bethancourt.

### **ALSO PRESENT**

The following Board staff participated in the virtual meeting: Patricia E. McSorley, Executive Director; Claude Deschamps, MD; Chief Medical Consultant; Heather Foster, Public Records Coordinator; and Amy Skaggs, SIRC Coordinator; Investigations. Elizabeth Campbell, Assistant Attorney General ("AAG") was also present.

### **C. OPENING STATEMENTS**

Gary R. Figge, M.D., Chair

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

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

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

- February 1, 2023 Board Review Committee A

**MOTION:** Dr. Moschonas moved for the Committee to approve the February 1, 2023 Board Review Committee A minutes.

**SECOND:** Dr. Farmer.

**VOTE:** The following Committee members voted in favor of the motion: Dr. Farmer and Dr. Moschonas. The following Committee members abstained: Dr. Figge and Ms. Oswald. The following Committee members were absent: Ms. Bain and Dr. Bethancourt.

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

**MOTION PASSED.**

## **LEGAL MATTERS**

### **F. FORMAL INTERVIEWS**

1. MD-21-1053A, AJAY NARWANI, M.D., LIC. #35814  
Dr. Narwani was present with counsel Richard Delo.

Board staff summarized the allegations against Dr. Narwani were for failing to consider concerning urinalysis (UAs) results prior to prescribing controlled substances to patient AA and that he inappropriately managed the medical treatment he rendered to a patient with a known history of addiction. Treatment rendered from 2017 onward was considered. Responses to the aberrant urine drug screens (UDSs) were addressed with three formal warnings, a number of verbal warnings were dispensed by NPs and the licensee in the interims between the formal warnings. The records revealed that another urine drug test was not accomplished until 6 months later; this UDS was also aberrant. Dr. Narwani then took steps to discharge the patient from his practice. Dr. Narwani explained that he had not noted overt signs or symptoms of addiction in AA. Dr. Narwani wrote his final prescription for AA's opioids approximately 16 months after AA's most recent, appropriate UDS.

Dr. Narwani provided an opening statement and explained that AA did have multiple negative UDAs and that these were attributed to AA not attending regular appointments. Dr. Narwani noted that COVID also affected in-person appointments, the ability to maintain a full staff and the proper pick-up of samples from FEDEX.

During questioning, Dr. Narwani explained that he sees his patients quarterly unless an additional visit is warranted. Dr. Narwani informed the Committee that a verbal warning is given first for negative UDS and is followed by a formal warning if the UDS comes up positive for substances other than prescribed. If the patient cannot provide a justification for aberrant UDSs the patient is discharged from the practice. Dr. Narwani further explained that when he was informed of AA's homelessness from the patient's brother, he attempted to contact him for weeks prior to discharging him. Dr. Narwani explained that he finds blood samples inaccurate and prefers to test through urine samples but noted that there are exceptions for some patients.

In closing, counsel stated that Dr. Narwani does not take complaints lightly and is using this complaint as a learning experience to make his practice better. Dr. Narwani completed UAs more often than recommended from the CDC and noted that AA did not have any indication of opioid addiction. Mr. Delo stated that Dr. Narwani believes he treated AA within the standard of care and disciplinary action is not warranted.

In closing, Dr. Narwani stated that pain management is a difficult field of practice and that his goal is to make sure all patients have a functional life.

Board staff noted that in the same month that AA was discharged he had already lost his home, job and relationship. It seems unlikely that this occurred due to the absence of medications since he was still receiving treatment at this time.

During deliberations, Dr. Figge commented that although there are some records concerns, the care seemed reasonable and noted that COVID did place a strain on physicians in private practice. Dr. Figge opined that there were some red flags that may have been missed, but the physician could have given the patient the benefit of the doubt. Dr. Figge opined that he is not convinced that there was a violation of the medical practice act. Dr. Moschonas opined that the pandemic dramatically changed practice to telemedicine which is not always as effective as patients need to be seen in the office for accurate care. Dr. Moschonas agreed that this was a difficult case and that there is no violation. Dr. Farmer agreed that pain management is a difficult field, and it is easy to view things in hindsight. The biggest concern was the UAs not being followed up on, but Dr. Farmer opined that it

does not reach the burden of proof for discipline. Dr. Farmer expressed concern that Dr. Narwani has had two previous advisory letters for medical records and the records here are weak. Dr. Farmer also noted that the medications were not prescribed at outrageous doses. Ms. Oswald expressed some concern that Dr. Narwani did not detect that AA had an opioid addiction and spoke in favor of an advisory letter regarding medical record keeping. Dr. Figge opined that this case does not rise to the level of discipline and that this situation may be better than CME in making the physician more diligent.

**MOTION: Dr. Figge moved to dismiss.**

**SECOND: Dr. Moschonas.**

Dr. Moschonas acknowledged that the physician stated that he now utilizes a compliance officer, which is proactive, and that this should be a learning experience for the physician. Dr. Farmer noted that although there have been changes made in the practice and can understand the dismissal, an advisory letter would help with tracking purposes.

**VOTE: The following Committee members voted in favor of the motion: Dr. Farmer, Ms. Oswald and Dr. Moschonas. The following Committee members abstained: Dr. Farmer. The following Committee members were absent: Ms. Bain and Dr. Bethancourt.**

**VOTE: 3-yay, 0-nay, 1-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

## **G. FORMAL INTERVIEWS**

1. MD-22-0263A, AARON W. L. LATOWSKY, M.D., LIC. #40966  
Dr. Latowsky was present with counsel Andrew Plattner.

Board staff summarized that EW, a 75 y.o. male was seen by Dr. LaTowsky in September 2016 with complaints of urinary dribbling associated with urgency 2-3 times per week. Rectal examination was done and revealed a large asymmetric gland; residual urine was 12cc. Cystoscopy was carried out and obstructing lateral lobes were identified with subsequent transrectal ultrasound done and biopsy performed which revealed atypia. Follow up with PSA and digital rectal exams was recommended. Over a year later, an ultrasound showed bladder wall thickening and a right renal cyst with large post-void residual. Cystoscopy revealed a small posterior bladder lesion which was fulgurated. The following year a second ultrasound with biopsies was performed and several high-grade prostatic intraepithelial neoplasia (PIN) areas were noted though no cancer was identified. In 2020, a third cystoscopy was carried out and increasing obstruction was noted so green light photo-selective vaporization (PVP) was scheduled in 3 stages due to the size of the gland. Stage 1 was completed. The patient was discharged home one hour later. That evening EW's wife contacted the NP noting complications. The following morning, the catheter was not draining, and the NP instructed the patient to be seen in the ED. The patient went to Banner Estrella Medical Center, but was subsequently transported to Abrazo West at the patient's wife's request when there was a significant delay in care. EW's post op course was remarkable with lethargy, altered mental status and sepsis along with pulmonary and cardiac problems. Watershed ischemic infarction and cerebral thromboembolic issues were identified. The family chose comfort care and the patient expired 3 weeks later.

Dr. LaTowsky provided an opening statement and requested that the case be dismissed. Dr. LaTowsky stated that the care he provided did not contribute to the patient's unfortunate outcome. Dr. LaTowsky stated that his care and documentation met the standard of care. The outcome was due to a major elective surgery performed by another urologist that the patient saw for a second opinion. Dr. LaTowsky noted that Dr. Feldstein opined that the Dr. LaTowsky's procedure was performed correctly and that the patient was not abandoned. Dr. LaTowsky informed the Committee of the procedure and outcome. Dr. LaTowsky noted that the patient called the office after the procedure with pain and bleeding and that his nurse practitioner informed EW that, if it continues, to go the emergency room. The patient went to the Banner emergency room and waited for three hours before transferring to Abrazo, where he waited for two and a half hours. Dr. LaTowsky noted the Abrazo physician's notes, which indicated that the patient was not having a life threatening

hemorrhage but did have a clot that needed to be removed. Dr. LaTowsky explained what he would have done to remove the clot if the patient had remained at Banner and stated that he did not require an additional surgery. Dr. LaTowsky noted that the other urologist elected to perform a major elective surgery, which resulted in the patient's outcome.

During questioning, Dr. Farmer inquired about the call with the NP. Dr. LaTowsky explained that the wife called the office regarding discontinuing a medication and the office placed a wellness check call and there were no concerns documented. Later that evening, the patient called the NP and reported blood in the urine and Dr. LaTowsky agreed with the NP's assessment. Dr. LaTowsky explained that on Monday morning he documented the NP's interactions and he spoke with the Abrazo urologist. The NP had advised the wife to remain at Banner because Dr. LaTowsky does not have privileges at Abrazo. Dr. LaTowsky further explained that, given the pandemic, the patient had to wait in the emergency room since he had normal vital signs and that if it was an emergency, he would have been triaged and admitted immediately. Once the patient is admitted he would have been irrigated.

Dr. Figge commented for the record that emergency departments during the pandemic were stressed and confirmed that if there was not pain and the foley was draining, then this patient would not go to the front of the line. If the situation had changed the patient would have been reassessed.

In closing, Mr. Plattner stated that the subsequent demise of the patient was not a result of Dr. LaTowsky's actions. The medical consult determined that the procedure was done appropriately and there no was abandonment. Dr. LaTowsky met the standard of care for the procedure and medical recordkeeping. There are not statutory violations and the case should be dismissed.

During deliberations, Dr. Farmer agreed that this case should be dismissed. Dr. Farmer stated that it was appropriate to do this procedure outpatient, there is no indication that this procedure was done wrong, and nobody notified the physician or the covering physician that anything was wrong over the weekend. Dr. Farmer opined there are no grounds for action. Dr. Figge agreed with the physician's assessment that this was urgent, but not emergent. Dr. Farmer agreed that a four-hour emergency room wait was not uncommon and the physician is not at fault for a system issue.

**MOTION: Dr. Farmer moved to dismiss.**

**SECOND: Dr. Moschonas.**

**VOTE: The following Committee members voted in favor of the motion: Dr. Figge, Dr. Farmer, Ms. Oswald, and Dr. Moschonas. The following Committee members were absent: Ms. Bain and Dr. Bethancourt**

**VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

## **H. FORMAL INTERVIEWS**

1. THIS CASE HAS BEEN PULLED FROM THE AGENDA.

## **GENERAL BUSINESS**

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

Dr. Farmer opined that these committee formats continue to work well. Ms. Oswald spoke in favor of the Zoom accommodation.

### **J. ADJOURNMENT**

**MOTION: Dr. Farmer moved for adjournment.**

**SECOND: Dr. Moschonas.**

**VOTE: The following Committee members voted in favor of the motion: Dr. Figge, Dr. Farmer, Ms. Oswald, and Dr. Moschonas. The following Committee members were absent: Ms. Bain and Dr. Bethancourt**

**VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

The meeting adjourned at 2:36 p.m.



*Patricia E. McSorley*

Patricia E. McSorley, Executive Director