Arizona Medical Board

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FINAL MINUTES FOR BOARD REVIEW COMMITTEE B MEETING
Held on Wednesday, August 2, 2023
1740 W. Adams St., Board Room B • Phoenix, Arizona

Committee Members
Lois E. Krahn, M.D., Chair
Katie S. Artz, M.D., M.S.
David C. Beyer, M.D., F.A.C.P.
Laura Dorrell, M.S.N., R.N.
James M. Gillard, M.D., M.S., F.A.C.E.P., F.A.A.E.M.
Pamela E. Jones

GENERAL BUSINESS

A. CALL TO ORDER
Chairman Gillard called the meeting to order at 10:46 a.m.

B. ROLL CALL
The following Committee members were present: Dr. Beyer, Ms. Dorrell, Dr. Gillard and Ms. Jones.

The following Committee members were absent: Dr. Artz and Dr. Krahn.

ALSO PRESENT

The following Board staff was present: Michelle Robles, Board Operations Manager. Carrie Smith, Assistant Attorney General ("AAG") was also present.

C. OPENING STATEMENTS

D. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA
No individuals addressed the Board during Public Statements Regarding Matters Listed on the Agenda.

E. APPROVAL OF MINUTES

- June 9, 2023 Review Committee B Minutes

MOTION: Dr. Beyer moved to approve the June 9, 2023 Board Review Committee B minutes.
SECOND: Ms. Dorrell.
VOTE: The following Committee members voted in favor of the motion: Dr. Gillard, Dr. Beyer, Ms. Dorrell and Ms. Jones. The following Committee members were absent: Dr. Krahn and Dr. Artz.
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-22-0261A, BRANDON E. GOUGH, M.D., LIC. #44644
Dr. Gough was present with counsel Paul Giancola.

Board staff informed the Committee that the Board initiated the case after receiving a complaint regarding Dr. Gough's care and treatment of a 55 year-old female patient ("LT") alleging improper performance of a total knee replacement surgery, inadequate post-operative follow-up, inappropriate supervision of a physician assistant, and inadequate continuity of care with other treating providers. On April 19, 2021 LT underwent a left total knee arthroplasty by Dr. Gough. LT had a complicated post operative course and was diagnosed with infection of the femur, tibia and patella. On November 1, 2021 LT had removal of the implants and placement of a cement spacer by Dr. Gough. LT's infection and renal dysfunction due to vancomycin was managed by an infectious disease physician. The Board's Medical Consultant ("MC") reviewed the case and determined Dr. Gough deviated from the standard of care by failing to check infection markers and consider obtainment of a knee arthrogram to aid in determining the presence and/or extent of the infection or a fistula. The MC stated that presentation of an infected arthroplasty site was unusual though there were opportunities missed when suggestions of an infection were present in laboratory infection markers and where a bone scan and/or an earlier MARS MRI would have been appropriate. The MC also commented that office records and Board responses appear inconsistent regarding the knee aspiration by a PA with conflicting information about whether it was superficial fluid or synovial fluid with the possibility of a fistula which would increase the risk of infection. Additionally, office records did not include laboratory test results and repeatedly described a polyethylene spacer exchange as being performed in an irrigation and debridement procedure that did not include this exchange. SIRC discussed the case and was troubled that Dr. Gough's responses at times, were inconsistent with office records. SIRC remained concerned with the multiple failures in the case including failure to recheck the inflammatory markers, consideration of a knee arthrogram, and no record of submitting the fluid sample for laboratory testing. In October, after an ER visit, the PA failed to obtain an adequate sample via a joint aspiration and never noted the laboratory results from the ER with high normal ESR and CRP value of 31.9 with a normal WBC level with left shift. An MRI obtained four days later revealed infection in all three bones of the knee joint. SIRC observed that Dr. Gough agreed that there was a delay in the diagnosis of infection, but stated the presentation was very abnormal. He also agreed he could have been more involved in LT's care, but stated he was an employee and heavily pressured to have his PA's monitor post-operative care. Therefore, SIRC also sustained a violation of A.R.S. § 32-1401(27)(jj) for the inadequate supervision of the PA. SIRC agreed with the MC that the patient's presentation was unusual but abnormal laboratory findings and absence of any consideration of diagnostic radiological investigations without sufficient explanation are such that this case rises to the level of discipline and requires education. On July 25th, Dr. Gough provided documentation that he completed an Academy of Orthopedic Surgeons CME course on Reconstructive surgery of the hip and knee on July 23, 2023 for 10 hours of CME credit.

Dr. Gough provided an opening statement to the Committee. Dr. Gough stated that this case has been a learning experience for him and noted that he has taken CME to further his education in the diagnosis of infection. Dr. Gough informed the Committee of the care and treatment provided to LT and the timeframe regarding the infection and surgery. Dr. Gough noted that when the possibility of infection was found there was a discussion with the patient's husband regarding the two options. They could complete a debridement or to be more aggressive and remove the implant and placement of an antibiotic spacer. Given LT's history the decision was made to try to save the implant. Two weeks later, LT had increased pain and stiffness and she was taken back for full explant and placement of an antibiotic spacer. When she was cleared to reimplanted, due to financial reasons she wanted to be implanted prior to the end of the year. Dr. Gough stated that he was in agreement with that but was unavailable for the surgery so he transferred her care to his partner and she had a reimplantation. Dr. Gough stated that LT was openly followed and assessed and was treated with increasingly levels of intervention for infection. Dr. Gough stated that his approach was to best treat the infection with the available tools.

During questioning, Dr. Gough explained that there is no specific timeline for post-operative infections. Dr. Gough informed the Committee of the standard timeline for post-operative follow-up visits. During the time this patient was treated most of the follow up visits were done by the PA. This was due to his employer heavily pressuring him regarding his case load. He has since started his own practice started his own practice. Dr. Gough clarified that the inspection labs were done due to the right knee pain. Four days later LT complained of new increased pain in the left knee and an aspiration was done on the left knee. The working diagnosis at that point was that she still had stiffness and pain and needed additional recovery time. Dr. Gough stated that his biggest take away from the CME is that not all infections present the same and that is what led to the delay in diagnosis in this case. Dr. Gough stated that the CME has raised his awareness of an indolent infection and that he should have been more aggressive in opening up the joint. Dr. Gough confirmed that he owns his own practice and supervises one PA. He is now present for all post-op visits.

In closing, Mr. Giancola stated that the patient had an unusual presentation given the lack of fluid present and was ultimately returned to surgery. Dr. Gough did consider and had a discussion with the patient and her husband regarding the risk benefits of saving the implant. Mr. Giancola stated that this was meticulously managed by Dr. Gough and his PA and the physician acted in a reasonable and prudent manner. Mr. Giancola opined that this does not rise to the level of unprofessional conduct and that the physician has taken steps to learn from this case and to prevent this from happening in the future.

During deliberation, Dr. Beyer opined that there has not been unprofessional conduct. This was a complicated case with a difficult patient and atypical presentation. Dr. Beyer commented that perhaps it could have been diagnosed a few weeks earlier or additional imaging was needed but stated that he is not convinced the physician errored in the manner of this. This was a difficult infection to find and when it was found it was managed appropriately. With regard to the management of the PA, Dr. Beyer opined that there were mitigating factors given the situation in which the physician was practicing.

MOTION: Dr. Beyer moved to dismiss.
SECOND: Ms. Dorrell.
VOTE: The following Committee members voted in favor of the motion: Dr. Beyer, Ms. Dorrell, Dr. Gillard and Ms. Jones. The following Committee members were absent: Dr. Krahn and Dr. Artz.
VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

H. FORMAL INTERVIEWS

1. MD-22-0487B, PETER J. MATTHEWS, M.D., LIC. #18945
   Dr. Matthews was present without counsel.

Board staff summarized that this case was initiated after receiving notification that Dr. Matthews' medical staff membership and clinical privileges had been terminated at a hospital on October 18, 2021 due to repeatedly exhibiting unprofessional behavior, which resulted in making hospital staff, patients and visitors feel uncomfortable and threatened. During the investigation, Board staff obtained Dr. Matthew's peer review records from the Hospital which included records related to the allegations of unprofessional behavior. In March 2018, Dr. Matthews was issued a letter for disruptive conduct for incidents that occurred from December 2017 through March of 2018. In October 2020, Dr. Matthews' privileges were summarily suspended for 28 days based on incidents that occurred in September 2020 through October 2020 with consideration of his history that had previously been addressed. Per requirements of the summary suspension, Dr. Matthews underwent a psychiatric evaluation on December 20, 2020, with subsequent visits. The evaluator recommended a plan for treatment which included anger management, one to one counseling, and return to work in one month. Dr. Matthews was also required to enroll in PBI's course on Elevating Civility and communication in Health Care which he

completed on January 8th-10th of 2021, and received 30 Hours of CME. On October 18, 2021, Dr. Matthews' medical staff membership and clinical privileges were terminated due to continued unprofessional behavior that occurred from August 2021 to September 2021, that constituted a significant disruption to the operation of the hospital and if allowed to continue, could result in imminent danger to the health and safety of hospital staff, patients and visitors. In review of Dr. Matthews' renewal application for 2021, Board staff noted that Dr. Matthews failed to disclose the suspension of his hospital privileges in October 2020. In review of Dr. Matthews' history with the Board, Board staff noted that Dr. Matthews was issued an Advisory Letter in 2015 for failing to disclose hospital privilege actions on prior renewal applications and for disruptive behavior in the workplace. Additionally, Dr. Matthews failed to disclose his voluntary refrainment from practice in 2009 on his 2011 renewal and failed to disclose his voluntary refrainment from practice in 2011 and a three-month suspension in 2012 on his 2013 renewal application. Dr. Matthews' reported that he is currently undergoing counseling and treatment. Dr. Matthews reported that he works for an organization counseling clients on prostate cancer screening, family history and PSA follow-up. He no longer performs procedures, surgeries and does not have an office practice as he is semi-retired. In May 2023, Dr. Matthews' license was renewed and his license is active until August 2025. SIRC reviewed the case and identified that Dr. Matthews had demonstrated a pattern of unprofessional behavior and failure to appropriately respond to renewal questions, despite a prior Board Advisory Letter, action by a hospital, and completion of CME.

During questioning, Dr. Matthews informed the Committee of what his current work entails and that his current position is low tech and mostly done on paper. Dr. Matthews explained that he doesn't typically interact with other health professionals but there are two phlebotomists who he works with. Dr. Matthews informed the Board he needs to learn more with regards to stress relief and meditation but has begun talking medication. Dr. Matthew's acknowledged that his anger and sarcastic comments were not acceptable and did not diffuse the situations he was in. Dr. Matthews explained that he failed to inform the Board of his issues with the facilities on his renewals due to ignorance, shame and the assumption that the facilities had already reported to the Board.

Dr. Beyer noted that Dr. Matthews has agreed with the violations and inquired why he appeared for a formal interview today.

Dr. Matthews explained that he appeared for the formal interview to request that the Committee allow him to continue to be able to work.

Dr. Beyer noted for the records that the physician is still practicing medicine and holds an active license.

Dr. Matthews confirmed that he did not complete a CME course in 2023.

In closing, Dr. Matthews stated that he has no excuse for his behavior and apologized.

During deliberation, Ms. Jones opined that there has been unprofessional conduct.

MOTION: Ms. Jones moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(r) and (kk).
SECOND: Dr. Beyer.
Dr. Beyer commented that it is important to acknowledge that the question on the renewal application is very clear and an honest response is expected on future applications.
VOTE: The following Committee members voted in favor of the motion: Dr. Beyer, Ms. Dorrell, Dr. Gillard and Ms. Jones. The following Committee members were absent: Dr. Krahn and Dr. Artz.
VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

Ms. Jones commented that even though the physician is semi-retired he does have a valid license until 2025.

MOTION: Ms. Jones moved to issue Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and One Year Probation to participate in psychotherapy. Within six months, complete PACE's Managing High Impact Emotional for Healthcare Professionals course. The CME hours shall be in addition to the hours required for license renewal. Dr. Matthews shall continue treatment with his current provider and comply with any recommendations for treatment. Dr. Matthews shall cause the therapist to submit quarterly reports to the Board. Dr. Matthews shall be responsible for all costs of the treatment and preparation of the quarterly reports. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board, and Dr. Matthew's request for termination shall be accompanied by a letter of support from his provider.
SECOND: Ms. Dorrell.
VOTE: The following Committee members voted in favor of the motion: Dr. Beyer, Ms. Dorrell, Dr. Gillard and Ms. Jones. The following Committee members were absent: Dr. Krahn and Dr. Artz.
VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

CONSENT AGENDA

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

1. MD-22-0243A, ARMANDO GONZALEZ, M.D., LIC. #24499

MOTION: Ms. Jones moved to approve the draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and Two Year Probation for Chart Reviews. Within thirty days, the physician shall enter into a contract with a Board approved monitoring company to conduct periodic chart reviews at his expense. After three consecutive favorable chart reviews, Dr. Gonzalez may petition the Board to terminate the Probation. Dr. Gonzalez shall not request early termination of Probation without having completed the chart review process. Additionally, Dr. Gillard moved to direct Board staff to lift the interim practice restriction.
SECOND: Dr. Beyer
VOTE: The following Committee members voted in favor of the motion: Dr. Gillard, Dr. Beyer, Ms. Dorrell and Ms. Jones. The following Committee members were absent: Dr. Artz and Dr. Krahn.
VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.
MOTION PASSED.

GENERAL BUSINESS

J. DISCUSSION REGARDING DEBRIEFING ON COMMITTEE PROCESSES

K. ADJOURNMENT

MOTION: MS. Dorrell moved for adjournment.
SECOND: Ms. Jones.
VOTE: The following Committee members voted in favor of the motion: Dr. Gillard, Dr. Beyer, Ms. Dorrell and Ms. Jones. The following Committee members were absent: Dr. Artz and Dr. Krahn.
VOTE: 4-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.
MOTION PASSED.

The meeting adjourned at: 1:36 p.m.

Patricia E. McSorley, Executive Director