



Arizona Medical Board

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FINAL MINUTES FOR BOARD REVIEW COMMITTEE A TELECONFERENCE MEETING

Held on Friday, October 6, 2023

1740 W. Adams St. • 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: 8:05 a.m.

B. ROLL CALL

The following Committee members participated telephonically: Dr. Figge, Ms. Bain, Dr. Bethancourt, Dr. Farmer, Dr. Moschonas, and Ms. Oswald.

ALSO PRESENT

The following Board staff were present: Patricia E. McSorley, Executive Director; Heather Foster, Public Records Coordinator; and Amy Skaggs, SIRC Coordinator; Investigations. Elizabeth Campbell, Assistant Attorney General ("AAG") was also present.

C. OPENING STATEMENTS

D. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA

Individuals who addressed the Committee during the Public Statements portion of the meeting appear beneath the case.

E. APPROVAL OF MINUTES

- August 2, 2023 Review Committee A Minutes

MOTION: Ms. Oswald moved to approve the August 2, 2023 Board Review Committee A minutes.

SECOND: Dr. Farmer.

VOTE: The following Committee members voted in favor of the motion: Dr. Figge, Dr. Farmer, Dr. Moschonas, Dr. Bethancourt, and Ms. Oswald. 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. MD-22-0427A, MITCHELL C. KAYE, M.D., LIC. #25021
Dr. Kaye and counsel Andrew Plattner were virtually present.

Board Staff summarized that the Board initiated this case after receiving a complaint from a registered nurse, YD, alleging that Dr. Kaye verbally and physically assaulted her and exhibited inappropriate and unprofessional behavior towards staff in the operating room. During the investigation, Board staff obtained Dr. Kaye's peer review records from the hospital, which included records related to the allegations of unprofessional behavior. The peer review records noted that there had been numerous complaints filed against Dr. Kaye from July 2010 through April 2022. The complaints and actions were categorized as inappropriate expression of anger, violation of rules, unethical conduct, and insufficient communication. On July 13, 2022, at the hospital's request, Dr. Kaye enrolled in the Pulse 360 Intensive Program. He has not yet completed the program. On February 15, 2023, Board staff issued an Interim Order requiring Dr. Kaye to undergo a psychiatric evaluation. The evaluator opined that Dr. Kaye did not meet criteria for a mental health or substance abuse condition which would impair his ability to practice medicine. The evaluator stated that it is hoped that Dr. Kaye's participation in the PULSE program will provide necessary insight and skills related to effective interpersonal communication. SIRC recognized that Dr. Kaye has no history of Board action; however, based on his history of behavioral issues at a hospital without resolution, SIRC recommended a Letter of Reprimand and Probation requiring completion of the PULSE 360 program. Furthermore, SIRC recommended that Dr. Kaye also complete CPEP's Improving Inter-Professional Communication course to ensure Dr. Kaye remediates the Board's concerns in a timely manner.

Dr. Kaye provided an opening statement to the Committee where he acknowledged that he has ruffled a few feathers lately and has made changes to better working conditions. Dr. Kaye explained the situation that occurred and stated that there was a last-minute decision to switch medical staff right before surgery which brought severe anxiety to my patient. Dr. Kaye requested that this case to be dismissed.

During questioning Dr. Kaye provided insight on how the situations escalated during surgery. Dr. Kaye stated that he called the supervising physician of the surgical floor to express his displeasure with medical staff and their work ethics and lack of preparedness of the surgical suite. He had arranged for an anesthesiologist to assist prior to the surgery as the patient was very anxious. Dr. Kaye informed the surgical floor prior to the surgery what equipment was needed so the suite would be prepped, and it was not. Dr. Kaye opined that the surgery went well and there was no impact on patient care. Dr. Kaye informed the Committee of the changes he has made after taking some of the courses in the PULSE program. This includes using hearing aids, choosing words more carefully, and picking his battles more carefully. Dr. Kaye opined that performing surgery requires a team that goes beyond the surgical suite.

Mr. Plattner provided a closing statement to the Committee and stated that this was not a case regarding patient care and that Dr. Kaye is in the PULSE 360 program and is willingly to improve his leadership and behavioral attitudes. Mr. Plattner stated that this is he said/she said situation and noted that the complainant cannot prove that physical violence occurred. Mr. Plattner requested dismissal.

During Deliberations, Dr. Bethencourt opined that there has been unprofessional conduct regarding the r and jj violations.

MOTION: Dr. Bethencourt moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(r) and (jj).

SECOND: Dr. Farmer.

Dr. Bethencourt explained that with regards to the r violation, Dr. Kaye's unprofessional conduct exhibiting disrespectful behaviors have an impact on staff, employers, and

patients. It can effect communication, provide a hostile work environment, bring down staff morale and increase patient mortality. Regarding the jj violation, Dr. Kaye needs to be a team leader, especially during the time out. Dr. Kaye's degrading comments towards YD was confirmed by all staff in the room as well and is considered inappropriate direction. Dr. Bethancourt commented that there was a lot of projection towards hospital leadership and staff and it's important for the physician's future career to understand these issues.

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

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

MOTION PASSED.

MOTION: Dr. Bethancourt moved for a draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and One Year Probation to include completion of CPEP's Improving Inter-Professional Communication course within 6 months and completion of the Physicians Universal Leadership Skills Education (P.U.L.S.E.) 360 Intensive Program within 12 months. 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, and Dr. Kaye's request for termination shall be accompanied by proof of successful completion of the CME.

SECOND: Dr. Farmer.

Dr. Farmer expressed concern regarding the physician's lack of insight and that stressed operating staff does impact patient care and can lead to adverse events or mortality. Dr. Farmer disagreed that this is a he said/she said situation and noted that Dr. Kaye has a voluminous file on disrespectful behaviors and opined that this does not occur without some involvement from the physician. Dr. Bethancourt opined that CPECP and the PULSE 360 program will be great for Dr. Kaye. Ms. Oswald opined from a patient's perspective this surgery should have been cancelled. Ms. Oswald expressed concern that Dr. Kaye has yet to make a connection between real or perceived disruptive behavior and patient care. This can be addressed with the PULSE program. Dr. Figge agreed and as a patient knowing what occurred there could be fear for potential harm.

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

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

MOTION PASSED.

G. FORMAL INTERVIEWS

1. THIS CASE HAS BEEN PULLED FROM THE AGENDA.

CONSENT AGENDA

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

1. MD-19-1001A, MD-20-0925A, RONALD A. YUNIS, M.D., LIC. #25201
B.G. addressed the Committee during the Public Statements portion of the meeting.

MOTION: Dr. Farmer moved to approve the Findings of Fact, Conclusions of Law and Order for Probation. Within six months of the effective date of this Order, Respondent shall complete the Improving Inter-professional Communications offered by the Center for Personalized Education for Physicians ("CPEP"). Upon completion of the CME, Respondent shall provide Board staff with satisfactory proof of attendance. The CME hours shall be in addition to the hours required for the biennial renewal of medical licensure.

SECOND: Dr. Bethancourt.

Dr. Farmer noted the public statements comments regarding this matter and noted that this case has been adjudicated and new conduct would need to go through the Board's complaint process.

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

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

MOTION PASSED.

GENERAL BUSINESS

I. DISCUSSION REGARDING DEBRIEFING ON COMMITTEE PROCESSES

Dr. Farmer stated this is an effective process and that the committee was able to go into detail to adjudicate the case. Dr. Bethancourt agreed that the process is very effective. Dr. Figge noted that the Board staff does an amazing job reviewing the hundreds of documents and putting the meeting together, so that the meeting moves effectively and smoothly.

J. ADJOURNMENT

MOTION: Dr. Farmer moved for adjournment.

SECOND: Ms. Oswald.

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

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

MOTION PASSED.

The meeting adjourned at: 9:49 a.m.



A handwritten signature in black ink, reading "Patricia E. McSorley", written over a horizontal line.

Patricia E. McSorley, Executive Director