



ARIZONA MEDICAL BOARD

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DRAFT MINUTES FOR SUMMARY ACTION TELECONFERENCE MEETING

Held on Tuesday, February 20, 2024

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

Board Members

Gary R. Figge, M.D., Chair
Bruce A. Bethancourt, M.D., F.A.C.P., Vice-Chair
Lois E. Krahn, M.D., Secretary
Katie S. Artz, M.D., M.S.
Jodi A. Bain, M.A., J.D., LL.M.
David C. Beyer, M.D., F.A.C.R., F.A.S.T.R.O.
R. Screven Farmer, M.D.
James M. Gillard, M.D., M.S., F.A.C.E.P., F.A.A.E.M.
Laura Dorrell, M.S.N., R.N.
Pamela E. Jones
Constantine Moschonas, M.D., F.A.A.N.
Eileen M. Oswald

GENERAL BUSINESS

A. CALL TO ORDER

Chairman Farmer called the Board's meeting to order at 4:04 p.m.

B. ROLL CALL

The following Board members were present: Dr. Figge, Dr. Bethancourt, Dr. Krahn, Dr. Beyer, Dr. Farmer, Dr. Gillard, Ms. Jones, Dr. Moschonas and Ms. Oswald.

The following Board members were absent: Dr. Artz, Ms. Bain and Ms. Dorrell.

ALSO PRESENT

The following Board staff participated in the meeting: Patricia McSorley, Executive Director; Raquel Rivera, Interim Deputy Director; Claude Deschamps, M.D., Chief Medical Consultant; Nicole Samaradellis, Investigations Manager and Michelle Robles, Board Operations Manager. Carrie Smith, Assistant Attorney General ("AAG") also participated in the teleconference.

C. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA

No individuals that addressed the Board during the Public Statements portion of the teleconference.

LEGAL MATTERS

D. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING SUMMARY ACTION OR TAKE OTHER ACTION

1. MD-23-0377A, MARCO B. SAUCEDO, M.D., LIC. #27068
Ms. Thompson participated virtually on behalf of the physician.

Board staff summarized that this case was previously considered at the Board's teleconference on January 3, 2024 for consideration of possible summary action. This case was initiated after receipt of receipt of a complaint from a community health center in Nogales, Arizona reporting that Patient MV had reported to their staff that she was assaulted by Dr. Saucedo in December 2022. Specifically, MV alleged

that Dr. Saucedo caressed her breasts, butt, and thighs, and used force to bend over the exam table. It was noted that a police report had been filed. Therefore, Board staff obtained records from Nogales PD which also included an April 2018 report from another female patient KL who alleged that Dr. Saucedo inappropriately touched her during an exam. In his responses, Dr. Saucedo denied both patients' allegations. Board staff interviewed MV, KL and Dr. Saucedo. During the interview, Dr. Saucedo reported that he had no independent recollection of MV or KL and maintained that their allegations were false. Based on the information obtained during the investigation, Board staff issued an Interim Order for Dr. Saucedo to complete a psychosexual evaluation and also offered an Interim Consent Agreement for Practice Restriction. Dr. Saucedo declined to enter into the ICA and the Board voted to allow Dr. Saucedo to undergo the evaluation and directed staff to obtain an update on the criminal case. Dr. Saucedo completed the psychosexual evaluation. The evaluators did not find any evidence of a mental or substance use disorder that may increase risk or propensity for boundary violations; and whether boundary violations occurred was cited to be indeterminate. The evaluators commented that it was concerning that more than one patient had made a complaint to the police, noting that it was unusual in a typical medical practice. The evaluators recommended that Dr. Saucedo, under no circumstances treat, advise, or interact with any female patient without being accompanied by a chaperone, nurse or MA at any time. They also recommended that Dr. Saucedo maintain a log reflecting the chaperone's presence, that he complete a boundaries course, obtain a practice monitor to provide quarterly reports to the Board regarding compliance with CME recommendations and chaperone requirements, and engage in weekly psychotherapy. The evaluators stated that given Dr. Saucedo's compliance with their recommendation, it is their opinion that Dr. Saucedo is safe to practice medicine. A Medical Consultant ("MC") reviewed the case and identified deviations from the standard of care for both patients. On February 8, 2024, a criminal complaint was filed against Dr. Saucedo in the Superior Court of Santa Cruz County charging 3 counts of sexual abuse (1 count related to KL and 2 counts related to MV); 1 count of sexual assault (KL), which are Class 5 Felonies; and 1 count of assault, Class 3 misdemeanor (MV). For KL, the sexual abuse charge cites intentionally or knowingly engaging in sexual contact with KL on April 2, 2018 without her consent by touching her genitals. The sexual assault charge cites intentionally or knowingly engaging in sexual contact with KL on 4/2/18 without her consent by digitally penetrating KL's vagina. For MV, the sexual abuse charges cite intentionally or knowingly engaging in sexual contact with MV on 12/13/22 without her consent by touching her breasts and nipples and genitals. The assault charge cites knowingly touching MV's butt with the intent to injure, insult, or provoke. On February 15, 2024, Board staff received notice from a hospital that they had summarily suspended Dr. Saucedo's privileges on a precautionary basis based on the criminal complaint filed. Dr. Saucedo's attorney confirmed that the Nogales prosecutor filed a Complaint against Dr. Saucedo based on the information provided to the Board, but because Nogales does not have a grand jury system, the matter will need to be set before a judge to determine whether probable cause exists for the charges in the Complaint, which remains pending. Board staff reached out to the Santa Cruz Deputy County Attorney who reported that Dr. Saucedo's initial hearing is on February 27, 2024 and that his probable cause hearing would be within 3 weeks after that. Dr. Saucedo's attorney also reported that he had already instituted chaperones in his practice provided his certificate of completion from the PACE Professional Boundaries course completed in the beginning of February. Board staff was in the process of offering an Interim Consent Agreement for Practice Restriction consistent with the recommendations of the evaluating facility; however, Board staff become aware of the criminal complaint filed; therefore, Board staff has requested that the Board be convened to consider the new information in the case and determine whether summary action or a practice restriction is warranted at this time. Of note, the investigation remains open and the next step of the investigation is to provide Dr. Saucedo an opportunity to provide a supplemental response to the IMC and Investigative Reports, which would then require review and consideration by SIRC prior to adjudication of the case. At this time, Dr. Saucedo's license remains active and unrestricted.

Ms. Thompson noted that this matter was tabled in January as the Board determined there was not enough information to proceed without the completed evaluation. Dr. Saucedo has complied with the Board's investigation and underwent the evaluation as requested. The evaluator found Dr. Saucedo was safe to practice with recommendations that Dr. Saucedo has already implemented. Ms. Thompson further noted that Dr. Saucedo has been charged but has not been convicted and there has not been a probable cause hearing before a judge. Dr. Saucedo has implemented changes to ensure he is never alone with a female patient and there is no probable cause that these charges may move forward. Ms. Thompson requested that Dr. Saucedo be allowed to continue to practice with the evaluator's recommendations.

Dr. Beyer inquired about the interim practice restriction that was being drafted.

Board staff confirmed that the ICA is in the process of being drafted and would outline and require compliance with the evaluator's recommendations. This would be a public order and is reportable.

Dr. Gillard inquired about the pending court date.

Ms. Smith clarified that it is a probable cause hearing and not a full evidentiary hearing and is limited in scope.

Dr. Gillard inquired about the Board's burden of proof.

Ms. Smith explained that the Board's burden of proof for the boundary violation is preponderance of the evidence. The issue before the Board is if this requires an interim determination based on the summary suspension statute on whether or not the public health, safety, and welfare imperatively requires emergency action. That is different from a full clear and convincing finding. Board staff has also provided the Board with the option to offer the Interim Practice Restriction with the recommendations as made by the evaluator.

Ms. Jones inquired about the ICA terms and if the physician's chaperone has been confirmed.

Board staff confirmed that the ICA would include the weekly meetings as recommended but noted that this has not been offered yet. Once the order is in place staff can confirm the chaperone and review the compliance logs and compliance monitor.

Ms. Jones opined that there is enough evidence from the evaluation and the Board must protect the public. This is a vulnerable population where the physician is the only provider. Ms. Jones opined that an order needs to be in place to ensure the evaluator's recommendations are in place.

MOTION: Ms. Jones moved to offer Dr. Saucedo an Interim Consent Agreement for Practice Restriction that incorporates the recommendations from the evaluators. If not signed by 5:00 p.m. tomorrow, summarily suspend Dr. Saucedo from practicing medicine in the State of Arizona pending the outcome of a Formal Hearing based on a finding that the public health, safety and welfare imperatively requires emergency action.

SECOND: Dr. Krahn.

Ms. Jones noted that given the small community a licensed provider may not be available. Dr. Krahn spoke in favor of a female licensed provider to ensure that the physician is monitored from the time the patient enters the room until the patient leaves the room.

Dr. Bethancourt inquired if he's the only provider and if he doesn't have privileges at other hospitals.

Board staff referenced a statement from Dr. Saucedo's counsel at the previous meeting that Dr. Saucedo was the only OB I Nogales. Staff clarified that there were other practitioners in the area, but Dr. Saucedo is the only OB who resides in Nogales.

Dr. Bethancourt commented for the record that this physician is not the only provider available to the population.

Board staff confirmed that Dr. Saucedo holds privileges at multiple hospitals.

Dr. Krahn commented that this is clearly a painful situation and understands that this physician has not stood trial but opined that this has progressed to the point that charges have been made. The Board needs to take action today to protect the public. Dr. Beyer noted that the discomfort is not regarding his care and knowledge but his boundaries. Dr. Beyer agreed with allowing the physician to practice as long as there are guardrails in place to protect the public and spoke in favor of the motion.

VOTE: The following Board members voted in favor of the motion: Dr. Figge, Dr. Bethancourt, Dr. Krahn, Dr. Beyer, Dr. Farmer, Dr. Gillard, Ms. Jones, Dr. Moschonas and Ms. Oswald.

The following Board members were absent:

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

MOTION PASSED.

E. ADJOURNMENT

MOTION: Dr. Gillard moved for adjournment.

SECOND: Dr. Bethancourt.

VOTE: The following Board members voted in favor of the motion: all

The following Board members were absent:

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

MOTION PASSED.

The meeting adjourned at: 4:37 p.m.



Patricia E. McSorley, Executive Director