



Arizona Medical Board

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FINAL MINUTES FOR ADMINISTRATIVE JOINT LEGISLATION AND RULES COMMITTEE TELECONFERENCE MEETING

Held on Wednesday, December 4, 2024
1740 W. Adams St., Phoenix, Arizona

THE BOARD WILL CONSIDER, DISCUSS AND MAY MAKE A RECOMMENDATION &/or TAKE
ACTION ON ANY AGENDA ITEM

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 order at 4:01 p.m.

B. ROLL CALL

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

The following Committee members were absent: Dr. Figge and Ms. Jones.

ALSO PRESENT

The following Board staff and Assistant Attorney(s) General participated in the virtual meeting: Patricia McSorley, Executive Director; Raquel Rivera, Deputy Director; Michelle Butler, Chief Operations Officer; Michelle Robles, Board Operations Manager and Heather Foster, Public Records Coordinator. Carrie Smith, Assistant Attorney General ("AAG") was also present.

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

- January 29, 2024 Administrative Joint Legislation and Rules Committee
- March 4, 2024 Administrative Joint Legislation and Rules Committee

MOTION: Dr. Krahn moved to approve the January 29, 2024 Administrative Joint Legislation and Rules Committee minutes and the March 4, 2024 Administrative Joint Legislation and Rules Committee minutes.

SECOND: Ms. Dorrell.

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

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

E. REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATIONS REGARDING AMB FY25 BUDGET

Ms. McSorley reported that 9 million was swept by the legislature last session, but the Board is back in good financial standing due to the renewal fees that have come in. Ms. McSorley noted that the Board's projected revenue is over 10 million dollars so the Board will be in good shape since the appropriated budget is about 9 million. Ms. McSorley further noted that the Board is now an 85/15 Board so 15 percent of the budget will go to the State. The Board's biggest expense comes from the IT Department so Board staff will need to take a look at IT expenses. The Board has software contracts that are expiring in June that will need to be reviewed. Ms. McSorley informed the Committee that the Board was able to shave about \$10,000 a month from the IT budget by cutting licenses that were no longer required. The Board currently has a pending request for FY26 for funds for two additional investigators and plans to ask for additional monies in FY27.

Ms. McSorley confirmed that the 15% that goes to the general fund comes from the total monies collected and the Board cannot use the money from its reserve fund unless appropriated. The Board must stay within 85% or less of revenue. Ms. McSorley explained going forward, she expects that the Board will be able to maintain operations on this adjusted income basis. Ms. McSorley noted that the budget works as a quarterly allotment.

Ms. Bain inquired whether the FY25 approved budget for \$8,000,003,41 comes from the Board's reserves.

Ms. McSorley confirmed that is correct and explained that the Board has to be able have the funds to support the request for additional funds. Ms. McSorley noted that the biggest expenses are for personnel and the IT related expenses. The Board is using several contracted staff, which requires additional payments to a staffing agency.

Ms. Bain inquired whether the Board still plans to do more outreach or specific types of CLEs to use monies effectively.

Ms. McSorley suggested waiting to see how this year progresses because most of the Board's funds are committed to current expenses. Ms. McSorley opined that extra unplanned activity would not be available in this particular budget.

Ms. Bain commented that the FY27 budget will be reviewed between now and September to see if it's a possibility.

Ms. McSorley opined that the priority should be to update the Board website as the technology is very old and recommended requesting additional or special funding to bring the public facing website up to date.

Dr. Krahn inquired about staff's need for additional training.

Ms. McSorley noted that most of the new contractors are in investigations and receive on-the-job experience and training from the manager. Ms. Rivera noted that every investigator is provided training by statute. Once they are board staff, they're required to go to CLEAR. Additionally, the Board sends investigators to AIM to become certified medical board investigators. The Board does not hold back professional development for the investigators. Ms. Rivera further agreed that on the job experience provides the best training due to the intricacies and complexities of actual cases.

F. REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATIONS REGARDING PROCEDURE, SEARCH & HIRING OF THE EXECUTIVE DIRECTOR

Ms. McSorley reported that she will be retiring at the end of April, and that Ms. Bain had sent some preliminary questions about the hiring process that she has provided a response to. Ms. McSorley noted that there is a statute and a policy that governs the hiring of an Executive Director, which have also been provided.

Ms. Bain inquired about whether 8 members of the committee makes a quorum and must it include the Chair and Vice-Chair of the PA Board.

Ms. Smith stated that there is a statute that governs the hiring process, requiring an Executive Director Selection and Retention Committee. The statute states that the presence of 8 committee

members at a meeting constitutes a quorum. Ms. Smith noted that how the committee functions needs to be determined by that committee and not by the JLRC today. The statute says the committee consists of the Medical Board and the Chair and the Vice-Chair of the PA Board. Ms. Smith noted that the whole purpose of this ED Selection and Retention Committee is to allow the members of the PA Board to have a say in the selection of the new Executive Director. Ms. Smith recommends calling a meeting of the Committee in order to facilitate the hiring process in January.

Dr. Farmer suggested holding a discussion during the Board's already scheduled December meeting and inviting the Chair and Vice-Chair of the PA Board to take part in that discussion.

Ms. McSorley agreed and stated that she would provide all the information that has been provided for today's discussion. Ms. McSorley noted that this is just preliminary information, but that ADOA can be consulted.

Ms. Smith noted that the Board can also have members of the AG's employment law section available to the committee for any questions they may have related to the selection process.

Ms. Bain inquired if those questions need to be asked in executive session.

Ms. Smith opined that the simple questions can be discussed in open session and the more complicated questions may be in executive session, but there's no requirement. Ms. Smith clarified that the pay, scope and scale are probably questions for ADOA. Ms. Smith noted that the interviews would be conducted in executive session.

G. REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATIONS REGARDING PROPOSED RULE CHANGE FOR R4-16-709, EMERGENCY AND TRANSFER PROVISIONS

Dr. Farmer stated that he knows of Dr. Merrell but that it would not affect his ability to consider this matter.

Ms. McSorley reported that this is a request for a rule change to Article 7, related to office-based surgery. On October 1, 2024, Dr. Deschamp and Ms. McSorley met with Dr. Merrill, who performs dental anesthesia, and he questioned whether the Board would consider a rule change for the use of sedation medications or agents that may trigger MHI. Dr. Deschamps agreed that it should be permissible to be able to use these types of medications for sedation, but that there should be some safeguards built into the process. Dr. Deschamps proposed a rule that might work and for the Committee to consider.

Dr. Farmer informed the Committee that Malignant Hyperthermia is fairly uncommon but a potentially lethal condition that can be triggered in people with a predisposition to certain, but not all, anesthetic agents. There's a medication that's expensive, but fairly specific, to treat the condition and it's important that when potential triggering drugs are used it's pretty much a standard of care that those agents to resuscitate the patient be immediately available.

Ms. McSorley read the current rule and the proposed rule for the record.

Ms. Smith clarified that it appears that the requestor is arguing that because this anesthetic is administered in dental offices and is otherwise regulated by the board, there should be language in the rule for those practices.

Dr. Farmer agreed with the proposed language and opined that the standard of care should be no different in a dental office from any other setting. The standard of care has always been that use of triggering agents involves having Dantrolene and other resuscitative measures available.

Dr. Krahn commented that malignant hypothermia has been a high priority for anesthesia research, and it's better understood now than it would have been in the past. It's more common in children than adults, and the ability to identify people at risk and therefore, not administer these agents to them has advanced. Dr. Krahn opined that changing the rule may be reasonable, just based on the additional knowledge that makes the use of these agents safer, especially with the requirement that Dantrolene be available.

Ms. Dorrell agreed that the reversal agent is the point and being able to have the lifesaving piece, if you are giving these medications, will keep Arizona safe.

Ms. Smith noted that the Medical Board's rules are the only ones that call out this malignant hypothermia and Dr. Merrell is arguing that they are not specifically prohibited in dental offices. Ms. Smith noted that the Dental Board has a statute that says that the dental office at which general anesthesia or sedation is administered must contain properly operating equipment and supplies as prescribed by the Board and rule and have properly proper emergency response protocols in place, including ACLS, airway management, pediatrics, as applicable. Ms. Smith stated that there's a generalized requirement to have emergency supplies available when providing general anesthesia but there is nothing specific to triggering agents for malignant hypothermia in the Dental Board's rules.

Dr. Farmer commented that he is not sure why a dental office is singled out when this is done in other settings.

Ms. McSorley clarified that the way the rule is currently written, it is prohibited for all office-based surgery and anesthesia, not just dental offices. Ms. McSorley opined that this rule may be old and needs to be updated to meet the current environment.

Dr. Farmer agreed that this is now what is occurring in practice settings. Dr. Farmer suggested that the Board should compare the language because it should be consistent across the board and further suggested bringing in a representative of the State Anesthesia Society.

Ms. Bain noted that in the proposed rule change the second sentence reads "The facility should have medications, including unexpired Dantrolene equipment, written protocols available to treat MH." Ms. Bain suggested that the language should say "The facility shall have the proper medications, including unexpired Dantrolene, equipment and written protocols on site and immediately available to treat MH."

Dr. Farmer agreed with the language change.

H. REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATIONS REGARDING RULEMAKING CALENDAR

Ms. McSorley suggested that the Committee have another meeting in January as Articles 3, 6 and 7 need to be addressed next.

Ms. Bain noted that the Board had requested a calendar so that the committee knows what's happening and when 5-year reviews need to be done.

I. REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATIONS REGARDING ADMIN/JLRC COMMITTEE QUARTERLY MEETINGS WITH AN AMB STAFF DEPARTMENT

Ms. Bain noted that this suggestion was made to create a way to allow staff to bring things to the Board.

Dr. Krahn expressed concern about the frequency of meetings and suggested deferring this until the Board is well underway with the selection of the new ED before revisiting this.

Ms. Bain suggested meeting four times a year and looking at a quarterly calendar.

Ms. Rivera requested clarification on what is expected from the departments at these proposed meetings and what information they are looking for.

Ms. Bain commented that it would be based on the needs of the department, whether that's budget, training or making the Board aware of something.

J. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED LEGISLATION IMPACTING PUBLICATION OF ADVISORY LETTERS

Ms. McSorley noted that this is proposed legislation and that there is a stakeholder meeting on December 18th to discuss this issue with health regulatory boards. The bill states that all disciplinary actions will be linked to the profile for 25 years, as well as Advisory Letters. Ms. McSorley noted that the language is "not more than 25 years" which needs to be clarified, and the language cleaned up. Ms. McSorley opined that this may be in response to recent press articles about discipline on regulatory board websites.

Ms. Bain opined that the distinction between discipline and an Advisory Letter needs to be explained to the legislature.

Ms. Rivera noted that recent news articles discussed the consumer perspective of the issue, and the extra step required to obtain advisory letters.

Dr. Farmer noted that advisory letters could be confused as discipline. Dr. Farmer inquired about Letters of Concerns.

Ms. McSorley explained that some other boards use letters of concern, which are also included in the proposed language.

Dr. Farmer commented that this will further affect how the Board tracks conduct. Dr. Krahn opined that she views an Advisory Letter as a way for physicians to know they need to be more aware or educated. Dr. Krahn noted that the Board says very often that if this behavior is repeated, that it may rise to the letter level of discipline. Dr. Krahn inquired whether the Board uses the word education in the name of these letter.

Ms. Smith informed the Committee that they would need a statutory change to change the name or to add something to the Advisory Letters.

Ms. McSorley noted that given the various discussions, she can convey the concerns of the Medical Board and the value to the Medical Board for advisory letters to be used as educational tools for physicians.

Ms. Bain agreed that it can be a helpful tool.

K. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING DEADLINES FOR THE SUBMISSION OF MATERIALS FOR BOARD REVIEW

Ms. McSorley presented the Committee with a draft of a revised meeting notice letter which included language stating that the Board would not accept written materials less than 48 hours prior to the meeting.

Ms. Bain inquired if the only change is the last sentence.

Ms. McSorley confirmed that it is the only change and intended to put people on notice that the Board will no longer documents within 48 hours of the meeting. Ms. McSorley noted that staff have tried to implement a 3-week timeframe which has not worked but it is unreasonable to submit and expect the Board to review voluminous submissions right before the meeting.

Committee members agreed that late submissions are not acceptable.

Ms. Bain suggested that the proposed language be changed to “Additionally, documentation must be received no later than 2 business days prior to the meeting.”

Committee members agreed with the proposed change.

L. DISCUSSION OF FUTURE TOPICS

No future topics were suggested at this time.

M. ADJOURNMENT

MOTION: Dr. Farmer moved for adjournment.

SECOND: Dr. Krahn.

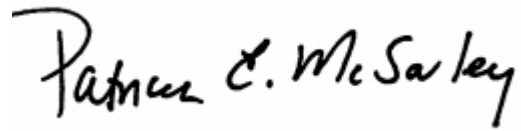
VOTE: The following Committee members voted in favor of the motion: Ms. Bain, Ms. Dorrell, Dr. Farmer and Dr. Krahn. The following Committee members were absent: Dr. Figge and Ms. Jones.

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

MOTION PASSED.

The meeting adjourned at 5:16 p.m.



A handwritten signature in black ink that reads "Patricia E. McSorley". The signature is written in a cursive style with a large initial "P".

Patricia E. McSorley, Executive Director