



Arizona Medical Board

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FINAL MINUTES FOR ADMINISTRATIVE JOINT LEGISLATION AND RULES COMMITTEE TELECONFERENCE MEETING Held on Friday, June 27, 2025 1740 W. Adams St., Phoenix, Arizona

Committee Members

Jodi A. Bain, M.A., J.D., LL.M., Chair
Katie S. Artz, M.D., M.S.
Bruce Bethancourt, M.D.
Laura Dorrell, M.S.N., R.N.
R. Screven Farmer, M.D.
Gary R. Figge, M.D.

GENERAL BUSINESS

A. CALL TO ORDER

Chairwoman Bain called the Committee's meeting to order at: 5:04 p.m.

B. ROLL CALL

The following Committee members were present: Ms. Bain, Dr. Artz, Dr. Bethancourt, Ms. Dorrell, Dr. Farmer and Dr. Figge.

The following Board staff participated in the virtual meeting: Raquel Rivera, Interim Executive Director; Pushpa Gregor, IT Manager; Michelle Butler, Chief Operations Officer and Michelle Robles, Board Operations Manager. Carrie Smith, Assistant Attorney General ("AAG") was also present.

C. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA

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

D. APPROVAL OF MINUTES

- February 12, 2025 Administrative Joint Legislation and Rules Committee
- May 1, 2025 Administrative Joint Legislation and Rules Committee

Ms. Bain noted that in the February 12th minutes her comments were cut off and the last sentence is "Ms. Bain asked whether it would be possible to have a couple of people from it. Department come and speak to the committee at the next meeting about IT budgeting concerns or budgeting issues."

MOTION: Dr. Figge moved to approve the February 12, 2025 and the May 1, 2025 Administrative JLRC Meeting Minutes.

SECOND: Ms. Dorrell.

VOTE: The following Board members voted in favor of the motion: Ms. Bain, Dr. Bethancourt, Ms. Dorrell, Dr. Farmer and Dr. Figge. The following Board members abstained: Dr. Artz.

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

MOTION PASSED.

E. REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATIONS REGARDING AMB FY25/FY26 BUDGET AND POTENTIAL APPROPRIATION CONSIDERATIONS

Ms. Rivera noted that a budget is planning to pass through the Senate today and onto the Governor. Because of that, we don't have the actual FY26 funding available yet but the appropriated amount is for the Board. We haven't been advised of any changes to that at this point. Ms. Rivera highlighted that in FY25 the board had five longstanding board employees retire, which wasn't something that was projected at the beginning of the fiscal year and resulted in extensive expenses. For funding the money that goes towards funding for personnel services. Ms. Rivera provided a breakdown of some of the professional and outside services. Ms. Rivera noted that staff was working up preliminary projections for future budgeting and that there would be an increase of approximately \$26,800 for the AGO ISA.

Dr. Bethancourt inquired about contract employees.

Ms. Rivera noted that we have contractors in three departments: investigations, licensing and IT. Ms. Rivera clarified that these contractors are full-time staff.

Ms. Butler explained that staff found it more successful to hire contractors to see how they worked out, and then once we went through a specific period, then we would bring them on board to fill in any vacancies. Ms. Butler noted that this process has worked well.

Dr. Bethancourt opined that it is really expensive as opposed to finding someone outright. However, Dr. Bethancourt commented that if you hire somebody and they don't have the talent it is difficult to remove them.

Ms. Butler explained that there's the employer-related expenses on top of that so it ends up being a little bit less expensive to start with the contractors.

Ms. Bain noted that in Ms. Rivera's memo there was a comment about not always having security in the room and opined that it is still needed based on some of the behavior patterns. Ms. Bain commented that we don't know if there is going to be an issue with a with somebody coming in and that there is a concern with people that come to call the public, that we may not know, or somebody who's just really irritated. Ms. Bain noted that she is seeing more and more highly agitated, angry, aggressive things happen around government officials.

Dr. Farmer noted that he and Ms. McSorley took a fairly detailed look at that and when she first started that as a concept, partly she started it out of necessity, because it was hard to get people, but by the time you had all in costs it wasn't all that different.

Ms. Rivera explained that the reason she put that in there is that Board staff have a really good idea of who may be a problem, whether it's a complainant or a doctor. Ms. Rivera stated that in those instances we would still have the ability to request DPS. Staff have been requesting them for every meeting, even if there are no concerns and opined that there may be a benefit to using discretion since we still have security on site to remove them if needed.

Ms. Bain expressed concern since the building security may take time to respond. Dr. Bethancourt and Dr. Figge agreed that since these are public meetings you cannot predict who will attend and how they will respond.

Ms. Rivera noted that there are some redundancies in IT. IT is our second largest expenditure separate from personnel. The first suggestion is regarding a contract with Lumen that is a three-year contract that includes an advanced management service portion of their contract. We realized that we can probably save around \$40,000 if we opt out of that portion of the contract, because we did see that there's a redundancy there, and what they're making available to us in terms of an engineer and we have that same capability on the Microsoft side. Ms. Rivera also noted that Zoom is quite an

expense for the Board. It's about \$16,000, but we would have zero expense if we transitioned over to the use of Google meets. Ms. Rivera noted that it is something we have access to due to ADOA. The Board is used to using Zoom and staff would work together to ensure Google Meets can have the same capabilities and whether it is something that we can work into our process. We are researching at this point and no final decision has been made. Ms. Rivera note that the last thing is our contract with Constant Contact. That's who we use to send out blasts of information to our licenses. Ms. Gregory has started researching other platforms throughout the State that are a little less expensive for us since we don't use it all the time.

F. REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATIONS REGARDING AMB IT BUDGET

Ms. Rivera informed the committee of the IT projects that are being worked on or are coming up. Ms. Rivera noted that a significant project is going to be our website refresh. We've been hearing complaints about our website for some time and we are going to make it more user friendly and more visually appealing. There's also a DOJ mandate associated with it and it puts a deadline on our compliance to make our website ADA accessible. Ms. Gregory has been working with the vendors and we are looking to get some grant funding to help out with this project.

Ms. Bain requested that at the July meeting that this IT item with a list of the sub projects that are happening now that the budget has come through. Ms. Bain further requested that Ms. Gregory be available to discuss it in more detail.

G. REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATIONS REGARDING AIM FOUNDATION AND FSMB GRANT APPLICATIONS

Ms. Rivera noted that the FSMB reached out to her today and they should have a response regarding our grant, and if we were selected next week. Ms. Rivera stated that she will follow up regarding the AIM foundation funding and noted that she plans to request \$10,000 to assist with the unlicensed practitioner project. Ms. Rivera explained that if the Committee supports it the form has been provided that needs to be filled out.

H. REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATION REGARDING FIVE YEAR REVIEW AND RULEMAKING CALENDAR THROUGH 2030 INCLUDING CRITICAL DATE PATHS

Ms. Bain inquired if there are any extensions that are expect that have not already been requested between now and September or October.

Ms. Rivera stated that no more extensions are expected. We got the extension for Article 2 and everything else we are in process and working towards meeting our deadlines. Ms. Rivera stated that she has no concerns at this time.

I. FIVE YEAR REVIEW

1. ARTICLE 2, LICENSURE - REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATIONS WITH UPDATE ON STATUS OF FIVE-YEAR REVIEW REPORT

Ms. Rivera provided the Committee a word document of what the current rules in Article 2 look like. Ms. Rivera explained that if we're going to make changes to Article 2 there are some things to consider after discussion with board staff. The first would be placing a time parameter of 10 years on initial applications. We currently request that they disclose any and all judgments or settlements against them. Ms. Rivera provided the Committee with some data for FY25 showing how many people disclosed malpractice statements and how those ended up. Ms. Rivera stated that depending on this suggestion and how the Committee is feeling, this would be the appropriate time with the rulemaking. Ms. Rivera noted that this session House Bill 2173 was passed and signed by the Governor on March 31st and this relates specifically to the confidential health questions we asked upon initial application and renewals. Ms. Rivera noted that we didn't take a position on there but the law would make it so that an applicant wouldn't have to disclose monitoring if it was confidential monitoring in another state. We would work with our different stakeholders prior to making any amendments.

Ms. Bain noted that the bill states a health professional regulatory board may not include any question on an application for a license, permit certificate or endorsement that requests information about whether the applicant has sought mental health assistance or received a mental health diagnosis or treatment. So it's a flat you cannot do this. However, it then reads that the health professional regulatory board may ask if the applicant is currently under a regulatory entities' order in another state for monitoring of a health condition, including substance abuse. The applicant is not required to respond if the monitoring is part of a confidential program.

Ms. Smith stated that is the problem with our rule. The question is set forth in a rule which means that you can't just change the application without also changing the rule. In both the regular initial application and the renewal application the language is confidential questions are whether is currently practicing under monitoring agreement with the Licensing Board in another State, attach a copy of the Monitoring agreement to the application. We need to look at the language of the question itself, which is whether the applicant currently has a medical condition that impacts the ability to safely practice medicine. Ms. Smith opined that for most of this the Board is good. The issue of the Board requiring the provision of confidential monitoring agreements that not being carved out in the rule that's probably in conflict with the new statute language.

Ms. Bain opined that this also impacts the information the Board is going to be getting when they are reviewing licenses going forward. Ms. Bain inquired if there is emergency rulemaking in here that we are supposed to do to accommodate this.

Ms. Smith confirmed that this is something that can be done in the next twelve months and in the interim the Board can't require the production of a confidential agreements and can't fault somebody for failing to turn that over during the application process. This will not take effect until 90 days after the close of the session, which would be September 25th.

Ms. Bain requested Ms. Smith and Ms. Rivera work on some type of an interim policy that will then be turned into rule. The Committee can take a look at it later in the summer.

2. ARTICLE 3, DISPENSING - REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATIONS WITH UPDATE ON STATUS OF FIVE-YEAR REVIEW REPORT

Ms. Rivera stated that there were no proposed changes, and it was submitted to GRRRC in advance of the deadline, The report is scheduled for the July 29th study session at GRRRC. Ms. Rivera stated that she will provide an update on the Board's August 5th agenda.

J. RULEMAKING

1. ARTICLE 6, DISCIPLINARY ACTION - OFFICE BASED SURGERY - REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATIONS REGARDING RULEMAKING CONSIDERATIONS

Ms. Rivera stated that no changes were proposed, and it was submitted to GRRRC. It was initially scheduled for the GRRRC session last week, but it was rolled over to another session, and I haven't got notice yet of when it will be considered.

2. ARTICLE 7, OFFICE BASED SURGERY - REVIEW, DISCUSSION AND POSSIBLE RECOMMENDATIONS REGARDING RULEMAKING CONSIDERATIONS

Ms. Rivera reported that the Oral Comment Meeting for the Notice of Proposed Rulemaking (NPR) related to Article 7 rules was held June 26, 2025. The Board received comments via email and two speakers provided their statements, which were also provided to the committee for their review and consideration. Ms. Rivera referenced the final draft of the NPR for the committee's reference.

Dr. Farmer explained that the proposed changes were initiated based on a community physician's request that the regulations be consistent with current practice standards related to the use of agents known to trigger malignant hyperthermia. Dr. Farmer noted that the

comments received broaden the scope of the proposed changes. Dr. Farmer noted that there was a comment requesting specification of whether dental practices fall under the Board's rules. Dr. Farmer noted that any rules promulgated would apply to all allopathic physicians including those working in dental offices, which Ms. Smith confirmed was accurate. There was another comment received regarding the requirement for a separate recovery area. Dr. Farmer agreed that a separate recovery room was not needed; however, there should be space dedicated for the recovery of the patient. Dr. Farmer explained that it is common for physicians to do a procedure in one room with monitoring and recover the patient in the same room. Dr. Farmer used the example of a dentist's office where an oral surgeon administers the sedating or anesthetizing agents in the dental chair, with monitoring for the dentist to do the procedure, and then the patient stays right in that same chair on that same stretcher, to be fully recovered, and as long as that space is at that time devoted to that patient without any other patients coming in and out or being distracting. Dr. Farmer noted that this was a pertinent comment and although not specifically intended in the proposed rule changes, whether it could be addressed at this time.

Ms. Rivera explained that how the committee moved forward would depend on whether or not the committee could adequately address the comments. Ms. Rivera further explained that if the committee determines that the comments could be adequately addressed, they can direct her to make the changes and attempt to move forward in the current rulemaking docket. If the changes were considered substantial, the Board could publish a Notice of Supplemental Rulemaking, which would slow down the process by three months. The next option would be to go back to the drawing board completely and terminate the rulemaking, or publish a notice of supplemental proposed rulemaking within one year of the publication of the original NPR in May.

Ms. Bain commented and questioned whether there was something to change and questioned whether anything needed to be incorporated into rulemaking specific to the sedation medication concerns. Dr. Farmer agreed that there were no substantial changes but did find it reasonable to address the separate recovery area since that would put a fairly onerous burden on small offices, unnecessarily. Ms. Bain questioned whether there was a current requirement for a separate recovery area. Dr. Farmer confirmed there was not a current requirement and it is not necessary to have a separate recovery area as long as their staff is specifically devoted to recovery. Dr. Farmer considered the three options provided by Ms. Rivera and requested the separate recovery area requirement be taken out. Dr. Farmer also requested stakeholder input from Arizona Anesthesiology Society and Arizona Surgeon Society. Dr. Figge agreed with eliminating the requirement stating that it was not necessary to have a second room depending on the size of the office. Dr. Farmer also addressed comments from the Maricopa County Medical Society citing the overreach of the rules beyond national standards. Dr. Farmer noted that current American Society of Anesthesiologists (ASA) standards require capnography for moderate sedation. Dr. Farmer explained that there is a lot of confusion around terms regarding sedation and further explained during cataract surgery, patients are often given a little bit of versed and a little bit of Fentanyl, and the practitioners call that anxiolysis, which is a term that's defined by the ASA and their standards. You don't have to have capnography for that, but if you escalate to sedation, they would have a different meaning for that. Dr. Farmer noted that the Board is trying to address the issue of what to do with malignant hyperthermia, triggering agents by just eliminating that terminology, and saying, if you use the agent, then that triggers the need to have all these precautions for malignant hyperthermia. Dr. Farmer also discussed the comments by the nurse organization that the proposed changes do not adequately address registered nurses, crucial role as professionals and advocates for the patient and surgical procedures. Dr. Farmer questioned whether the Nursing Board had standard for office-based surgery and whether the rules need to specify the personnel required to be present for office-based procedures, but noted it was tangential to the need for the proposed changes. Dr. Farmer requested Dr. Artz's input regarding the comments and proposed rule changes. Dr. Artz agreed with Dr. Farmer and the commenter regarding the unnecessary requirement for a separate recovery area. Dr. Artz confirmed that none of the places that do office-based surgery have separate recovery rooms. Dr. Artz noted that she does not do office based anesthesia but upon discussion with colleagues, they have people available to administer the

medications while the surgeon is focusing on the procedure and the anesthesia provider is monitoring the anesthesia portion. Dr. Farmer continued to question whether the broadened discussion required the Board to delay the process. Ms. Bain noted that the comments that are not in scope or under the Board's purview such as nurse involvement but there is nothing the Board can do about that. Ms. Bain questioned the separate recovery area wording.

Ms. Smith stated that the Board could address the recovery area concern but highlight that MCMS's comment related to the healthcare institution license requirement is a DHS requirement and the Board does not have the authority to change that since it is set out in Title 36. In regard to the recovery area issue, Ms. Smith discussed some potential wording changes to eliminate the use of a separate area. Ms. Rivera suggested amending the sentence to "Allow for post-procedure monitoring of the patient until the patient is evaluated by a physician and determined ready for discharge;" which was supported by the committee.

Ms. Dorrell spoke in regard to the nurses' comments and stated that upon her review of their comments, she felt they were advocating for their role in surgery and making sure unlicensed or Medical Assistants would not be taking the role of the RN. Dr. Farmer questioned whether their concern would be in the purview of the Nursing Board.

Ms. Smith noted that there are no changes under consideration to ensure that a staff member assists with a healthcare. Ms. Smith noted that R4-16-703(A)(2) requires the healthcare professional who participates in office based surgery to have sufficient education, training, and experience to perform the duties assigned; if applicable, has a current license or certification to perform duties assigned; and performs only those acts that are within the scope of practice. Ms. Smith noted that this was not in any language being considered by the Board and it doesn't directly bear on the question of the use of these agents which was the purpose of the rule change. Ms. Smith also noted that the current rule does not alter the current requirements in any way; therefore, if a nurse is handing over the medications, there is nothing in the rules that changes that dynamic.

Ms. Rivera requested the Committee's input on the comments related to the lack of clarity with regard to the surgeon versus anesthesiologist's responsibilities. Ms. Rivera noted that R4-16-705(5) requires that there be a physician or other qualified healthcare professional administering the sedation be present and responsible only for the sedation and patient effects, and does not participate in the surgery or procedure.

Dr. Farmer stated that the language was appropriate. Dr. Farmer noted that the reality is if it's the surgeon's office that the procedure is being done in, they have some responsibility. The anesthesiologist is probably going to show up and check and make sure that the equipment's appropriate. But the reality is, it's the surgeon's office staff that's going to be assembling all that equipment in most circumstances. Dr. Figge explained that when he performs a shoulder surgery, he has to have another provider in the room, one watching the sedation and the other doing the procedure as long as someone is there and qualified to do it. Ms. Bain noted that there may be complaints if the Board modifies language on who is responsible in a policy or rule. Dr. Farmer stated he was satisfied with the current wording and requested any modifications discussed be sent to the Arizona Anesthesia Society and MCMS.

Ms. Rivera noted that the Federation of State Medical Board (FSMB) Overview of States Office-Based surgery guidelines was provided to the committee along with the specific guidelines for Colorado, North Carolina, and Kansas. Ms. Rivera stated that Colorado and North Carolina did not require a separate procedure areas and noted that none of the states specifically discussed RNs or the specific personnel separate from defining a qualified anesthesia provider. Additionally, Ms. Rivera noted that the other states rules do not address who does what during the procedure or specifically list the responsibilities of the surgeon or anesthesia provider but the overall requirements for office-based surgery in general.

Dr. Farmer requested a grammatical change to R4-16-708(B) where it states if the physician uses volatile agents and medications that may trigger malignant hyperthermia, it should read,

uses volatile agents and/or other medications that are known to trigger malignant hyperthermia.

Ms. Smith noted the construction of and/or may be an issue and recommended using “volatile agents or other medications that may trigger malignant hyperthermia”.

Ms. Rivera inquired about the suggested correction of dantrolene in lieu of Dantrolene. Ms. Rivera also inquired about the suggested correction in R4-16-705(2) to state ventilatory function in lieu of ventilator function.

The Committee approved the suggested revisions. The Committee discussed whether ASA guidelines for malignant hyperthermia should be included in the rules. Dr. Bethancourt questioned the current reading of R4-16-708(B)(2)(a) noting that as read, it appears it is stating that you cannot use unexpired dantrolene and implies any other drug one would want to use that is expired would be okay. The committee agreed with Dr. Bethancourt’s opinion and Dr. Farmer explained that the reason unexpired dantrolene was specified is due to the medication being expensive, seldom used, and its relatively quick expiration; therefore, there could be a problem with people trying to skirt the expiration date due to cost. The committee suggested revising R4-16-708(B)(2)(a) to Medications, including Dantrolene (unexpired).

K. REVIEW, DISCUSSION, AND POSSIBLE RECOMMENDATIONS REGARDING JOINT EDUCATIONAL MEETING WITH DO BOARD

Ms. Rivera agreed to move this topic to the next agenda. Ms. Rivera requested that we start putting down a date so that we can start organizing part of this meeting. We’re looking at the fall, but it takes significant resources to coordinate two boards.

Ms. Bain requested that the calendar be emailed to the committee members.

Ms. Rivera requested that if there are any topics that the committee members would like to have discussed at this meeting, please email them to her.

L. REVIEW, DISCUSSION AND CONSIDERATION OF FSMB DRAFT RECOMMENDATIONS FROM ADVISORY COMMISSION ON ADDITIONAL LICENSING MODELS

Ms. Rivera reported that the deadline for feedback is July 11th but noted that the Board meeting on is on July 9th which is adequate time for her to take back any feedback and provide it to the FSMB. Ms. Rivera opined that this is timely, relevant and important. Ms. Rivera provided an overview of what’s happening in other States so that we can be adequately prepared for what the Federation is doing and what those guidelines are.

Ms. Bain requested information on bills 1395 and 1108.

Ms. Rivera noted that 1108 put a significant onus on the Board in order to create an English proficiency test and training. The Board would have to do cultural competence training for any new applicants before we have them come through it. Ms. Rivera opined that this is something that didn’t seem very practical in nature.

Ms. Smith noted that 1108 had the provisional license for the IMGs for a three year provisional license for an IMG to serve in an underserved community. Ms. Smith confirmed that it did not pass.

Dr. Bethancourt commented that part of taking the ECFMG is language proficiency. In order to get through the ECFMG certification you have to prove that you are proficient in English.

Ms. Rivera noted that it did eventually require them to go through ECFMG certification to be given the provisional license.

Dr. Figge confirmed that the last one did and noted that at the FSMB they explained how regimented they are and all the stuff they go through and as long as they are being vetted before they come to

the Board. Dr. Figge opined about the increased obligation on the Board to be monitoring, educating, verifying these applicants and stated that it doesn't make sense without an increase in budget. Dr. Figge further commented that the FSMB newsletter came out and two more stated passed laws on expanded license and alternative license pathways for international physicians.

Ms. Bain inquired if this is happening due to a shortage of physicians or because of the way the world is changing.

Dr. Figge commented that the media presentation is that it's a physician shortage but at the FSMB meeting there was talk that the people are coming over here and training, and there's a certain pathway where they're supposed to go back. Their training here with the intent to go back and that's part of an agreement, and most of them do not. Dr. Figge opined that it's a combination.

Ms. Rivera noted that Washington is one of the states where they give a license to provide treatment to rural or underserved areas, but they're actually monitoring it and making sure that they stay within those areas. They're not getting the license and then going and opening a Med Spa or in the city. They have a dedicated enforcement area, where they are watching and tracking these IMG people that are being licensed to make sure they are staying in that designated area for a specific time period.

Dr. Figge agreed that it is for a specific time period and after that time they can do what they want, but for at least a certain period of time they're serving the underserved, which is the intent of a lot of this.

Ms. Rivera offered to reach out to the people who did the ECFMG presentation at the FSMB to provide some education to the Board.

Dr. Figge opined that would be a good subject for the education session.

M. REVIEW, DISCUSSION AND CONSIDERATION OF GOVERNOR'S OFFICE CORRESPONDENCE REGARDING POTENTIAL SHUTDOWN

Ms. Rivera commented that this is now a moot issue but noted that she will continue to create COOP plans for future use.

Ms. Bain inquired about what it would look like and if the Board would go on a skeleton system.

Ms. Rivera explained that the Governor's office provided no guidance, so she has created a couple of different plans with the thought of having furloughed staff, a skeleton crew staff, or if she's the only person being expected to work without pay.

N. DISCUSSION OF FUTURE TOPICS

Ms. Bain requested an update on the Budget, IT projects, rulemaking and the DO Board meeting.

O. ADJOURNMENT

Dr. Figge complimented Ms. Rivera on doing a great job.

MOTION: Dr. Bethancourt moved for adjournment.

SECOND: Dr. Figge

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

The following Board member was absent:

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

MOTION PASSED.

The meeting adjourned at: 6:38 p.m.



Raquel Rivera

Raquel Rivera, Executive Director