



Arizona Regulatory Board of Physician Assistants

1740 W. Adams St, Suite 4000, Phoenix, AZ 85007
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DRAFT MINUTES FOR TELECONFERENCE MEETING Held on Wednesday, May 27, 2020 1740 W. Adams St., Board Room A, Phoenix, AZ 85007

Board Members

Myles A. Whitfield, P.A.-C, Chair
Randy D. Danielsen, PhD, P.A., D.F.A.A.P.A. Vice Chair
Richard L. Averitte, Jr., M.D.
Kendra Clark, P.A.-C
Kevin K. Dang, Pharm D.
Thomas E. Kelly, M.D., F.A.C.E.P.
John J. Shaff, PA-C, D.F.A.A.P.A.
Susan Reina, P.A.-C
Beth E. Zoneraich

GENERAL BUSINESS

A. CALL TO ORDER

Chairman Whitfield call the Board's meeting to order at 10:03 a.m.

B. ROLL CALL

The following Board members participated telephonically: Chairman Whitfield, Vice-Chairman Danielsen, Dr. Averitte, PA Clark, Dr. Dang, PA Shaff, PA Reina, and Ms. Zoneraich. The following Board member was absent: Dr. Kelly.

ALSO PRESENT

Present among Board staff include: Patricia McSorley, Executive Director, William Wolf, M.D., Chief Medical Consultant; Kathleen Coffey, M.D., Internal Medical Consultant; Raquel Rivera, Investigations Manager; Twana Fairbourn, Compliance; Catherine Desmarais, Compliance; Carrie Smith, Assistant Attorney General (AAG); Anne Froedge, AAG; Roberto Pulver, AAG; and, Andrea Cisneros, Minutes Administrator. Elizabeth Campbell, AAG, also participated to provide the Board with independent legal advice for the hearing cases as referenced herein.

C. CALL TO THE PUBLIC

Individuals that addressed the Board during the Call to the Public appear beneath the matter(s) referenced.

D. REVIEW, DISCUSSION, AND POSSIBLE ACTION REGARDING EXECUTIVE DIRECTOR'S REPORT

- Update on Board Staffing, Meetings, and Processes

Executive Director McSorley reported that the Agency is fully operational with multiple staff teleworking, and a number of staff rotating through the office to take care of matters that need to be done in-office. She stated that the Board's next regular meeting is scheduled for August 26, 2020, and that Deputy Director Kristina Fredericksen continues to work on facilitating the Board's ability to hold its meetings via Zoom.

Chairman Whitfield expressed his appreciation for Board staff's efforts in facilitating the Board's meetings and stated he was hopeful for the Board to return to holding its meetings in-person.

- Update on Legislation

Executive Director McSorley informed the Board that the Senate closed today and that the pending bills did not progress to the Governor's Office. She assured the Board that staff will continue to monitor the situation and report back to the Board any progress that is made.

- Update on Emergency Temporary License Processes

Executive Director McSorley reported that the Board has received a total of 27 applications for temporary licensure. She stated that 12 applications were approved, 4 were determined to not qualify for unusual reasons, and that the remaining ten applications are currently pending documentation for proof of citizenship.

E. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING CHAIR'S REPORT

Chairman Whitfield applauded the efforts of the Board's staff and thanked them for their hard work in facilitating these proceedings. He also expressed his appreciation for the Board members' participation.

F. REVIEW DISCUSSION AND POSSIBLE ACTION REGARDING LEGAL ADVISOR'S REPORT

G. APPROVAL OF MINUTES

- February 26, 2020 Regular Session Meeting
- April 2, 2020 Special Teleconference Meeting

MOTION: Vice-Chairman Danielsen moved for the Board to approve the February 26, 2020 Regular Session Meeting, and the April 2, 2020 Special Teleconference Meeting.

SECOND: Ms. Zoneraich

VOTE: The following Board members voted in favor of the motion: Chairman Whitfield, Vice-Chairman Danielsen, Dr. Averitte, PA Clark, Dr. Dang, PA Shaff, PA Reina, and Ms. Zoneraich. The following Board member was absent: Dr. Kelly.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

LEGAL MATTERS

H. REVIEW, CONSIDERATION AND POSSIBLE ACTION ON PROPOSED BOARD ORDER ARISING FROM ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION

1. PA-15-0127A, PA-16-0086A, KIMBERLY A. HART, P.A., LIC. #5631

PA Hart did not participate in the Board's meeting during consideration of this matter. AAG Pulver was present on behalf of the State. AAG Campbell was present to provide the Board with independent legal advice. Board members indicated that they received and reviewed the administrative record of the Formal Hearing in this matter.

AAG Pulver summarized that on March 4-5, 2020, the Formal Hearing was held regarding the above referenced cases, and that the PA did not appear at the Hearing. On March 17, 2020 the Administrative Law Judge (ALJ) issued a Recommended Decision and Order for License Revocation. AAG Pulver explained that the investigations demonstrated that the PA deviated from standards of care, failed to comply with a Board

Order, and is medically incompetent to return to the performance of healthcare tasks as a PA based on a health condition.

AAG Pulver informed the Board that he filed a Motion to Modify and Accept the ALJ's Recommended Decision and Order for License Revocation, to correct several typographical errors, clarification of grammar, and numbering errors. AAG Pulver confirmed that the PA was provided a copy of the State's Motion and that no response was received. AAG Pulver requested two corrections to the proposed Board Order, to clarify that the PA did not attend the Hearing, and to add "and" before "appeared telephonically" on line 14 of page 1.

MOTION: Vice-Chairman Danielsen moved for the Board to adopt and modify the ALJ's recommended Findings of Facts with the amendments as requested by AAG Pulver in the State's Motion to Modify and Accept the ALJ's Recommended Decision.

SECOND: Ms. Zonerach

VOTE: The following Board members voted in favor of the motion: Chairman Whitfield, Vice-Chairman Danielsen, Dr. Averitte, PA Clark, Dr. Dang, PA Shaff, PA Reina, and Ms. Zonerach. The following Board member was absent: Dr. Kelly.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

MOTION: Vice-Chairman Danielsen moved for the Board to adopt and modify the ALJ's recommended Conclusions of Law with the amendments as requested by AAG Pulver in the State's Motion to Modify and Accept the ALJ's Recommended Decision.

SECOND: Ms. Zonerach

VOTE: The following Board members voted in favor of the motion: Chairman Whitfield, Vice-Chairman Danielsen, Dr. Averitte, PA Clark, Dr. Dang, PA Shaff, PA Reina, and Ms. Zonerach. The following Board member was absent: Dr. Kelly.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

MOTION: Vice-Chairman Danielsen moved for the Board to adopt the ALJ's recommended Order for License Revocation.

SECOND: PA Shaff

VOTE: The following Board members voted in favor of the motion: Chairman Whitfield, Vice-Chairman Danielsen, Dr. Averitte, PA Clark, Dr. Dang, PA Shaff, PA Reina, and Ms. Zonerach. The following Board member was absent: Dr. Kelly.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

MOTION: Vice-Chairman Danielsen moved for the Board to adopt and modify the proposed Board Order for License Revocation with corrections made to Page 1, Line 13 to note that the licensee did not appear; and, to include "and" before "appeared telephonically" on Page 1, Line 14.

SECOND: Ms. Zonerach

VOTE: The following Board members voted in favor of the motion: Chairman Whitfield, Vice-Chairman Danielsen, Dr. Averitte, PA Clark, Dr. Dang, PA Shaff, PA Reina, and Ms. Zonerach. The following Board member was absent: Dr. Kelly.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

CONSENT AGENDA

I. CASES RECOMMENDED FOR ADVISORY LETTERS

1. PA-19-0088A, LLOYD G. BARKER, P.A., LIC. #2193

Board staff summarized that a chart review was initiated to ensure that the licensee was abiding by the terms of the Board's Order for Probation with Practice Restriction requiring a chaperone. Five charts were reviewed, and a violation was identified in one instance in that there was no indication that the chaperone was present for the patient visit. Board staff received confirmation that the chaperone was present during the one specific patient encounter. Board staff recommended the issuance of an Advisory Letter.

MOTION: Chairman Whitfield moved for the Board to issue an Advisory Letter for violating the practice restriction of his Board Order by failing to ensure that the presence of a chaperone was appropriately documented in a patient's record for one date of service. The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.

SECOND: Dr. Averitte

VOTE: The following Board members voted in favor of the motion: Chairman Whitfield, Vice-Chairman Danielsen, Dr. Averitte, PA Clark, Dr. Dang, PA Shaff, PA Reina, and Ms. Zonerach. The following Board member was absent: Dr. Kelly.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. PA-19-0054A, FRANCIS R. LUCIANO, P.A., LIC. #5965

Complainant RA addressed the Board during the Call to the Public.

Board staff summarized that the patient presented to the Emergency Room (ER) for injuries sustained after falling in the shower. PA Luciano saw RA and noted that the patient denied any head injury, shortness of breath, or chest pain and that he had no other symptoms. There were no chest x-rays obtained at that time. RA was treated with Fentanyl and Zofran, and he was discharged after a normal troponin level was noted. At the time of discharge, RA received a prescription for Tramadol for pain and was instructed to follow up with his primary provider in two days or the ER if his condition worsened. A subsequent CT scan showed multiple findings including rib fractures. RA was hospitalized and seen by multiple consultants, including two trauma surgeons, and underwent additional studies and procedures.

The Medical Consultant ("MC") who reviewed the case for the Board observed that while the PA failed to order imaging, the patient was likely to have had a similar hospital course. Board staff recommended the issuance of an Advisory Letter.

MOTION: Chairman Whitfield moved for the Board to issue an Advisory Letter and Order for Non-Disciplinary CME for failure to order imaging of the chest in a patient presenting after a fall with chest pain causing a delay in diagnosis of multiple rib fractures. While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against the licensee. Within six months, complete no less than 3 hours of Board staff pre-approved Category I CME in the management of chest and thoracic trauma. The CME hours shall be in addition to the hours required for license renewal.

SECOND: PA Clark

Vice-Chairman Danielsen proposed issuing a Non-Disciplinary CME Order in addition to the Advisory Letter, requiring the PA to complete 3 hours of Category I CME in the management of chest and thoracic trauma in addition to the CME required for license renewal, to be completed within six months. Chairman Whitfield and PA Clark agreed to the friendly amendment to their motion to include a Non-Disciplinary CME Order in addition to the issuance of an Advisory Letter, per Vice-Chairman Danielsen's suggestion.

**VOTE: The following Board members voted in favor of the motion: Chairman Whitfield, Vice-Chairman Danielsen, Dr. Averitte, PA Clark, Dr. Dang, PA Shaff, PA Reina, and Ms. Zoneraich. The following Board member was absent: Dr. Kelly.
VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.**

J. PROPOSED CONSENT AGREEMENTS (Disciplinary)

1. PA-18-0065A, ALBERT R. TUTTLE, P.A., LIC. #1138

Board staff summarized that this case was initiated based on concerning care and prescribing of PA Tuttle for two patients that was noted during the review of another provider. During the course of the Board's investigation, two additional patients' charts were obtained for quality of care review based on review of the Controlled Substance Prescription Monitoring Program (CSPMP). The MC who reviewed the case identified multiple deviations from the standard of care on the part of PA Tuttle involving inappropriate prescribing of controlled substances, monitoring for patient compliance, as well as medical recordkeeping concerns in all of the charts reviewed.

On January 29, 2018, PA Tuttle entered into an Interim Consent Agreement for Practice Restriction prohibiting him from prescribing controlled substances. SIRC reviewed this matter and recommended that PA Tuttle's Practice Restriction remain in effect until such time that the licensee has completed intensive, in-person CME in prescribing controlled substances as well as medical recordkeeping, and has entered into a contract with a Board-approved monitoring company to perform periodic chart reviews for the duration of Probation.

MOTION: Chairman Whitfield moved for the Board to accept the proposed Consent Agreement for Letter of Reprimand and Two Year Probation with Practice Restriction. PA Tuttle's practice shall be restricted in that he is prohibited from prescribing controlled substances until he has completed the CME requirements, and enters into an agreement with a Board-approved monitoring company to conduct chart reviews. Within 12 months, PA Tuttle shall complete no less than 15 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding prescribing controlled substances; and, complete no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding medical recordkeeping. The CME shall be in addition to the hours required for license renewal. Within 30 days of completion of the CME, PA Tuttle shall enter into a contract with a monitoring company to perform periodic chart reviews of current patients' charts for care rendered after the date PA Tuttle has returned to practice. PA Tuttle's request for Probation termination shall be accompanied by three consecutive favorable chart reviews from the monitoring company.

SECOND: PA Shaff

VOTE: The following Board members voted in favor of the motion: Chairman Whitfield, Vice-Chairman Danielsen, Dr. Averitte, PA Clark, Dr. Dang, PA Shaff, PA Reina, and Ms. Zoneraich. The following Board member was absent: Dr. Kelly.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. PA-19-0060A, CARISSA D. COLGROVE, P.A., LIC. #7043

Attorney Susan McClellan addressed the Board during the Call to the Public on behalf of PA Colgrove.

Board staff summarized that PA Colgrove was found to have had a non-approved Supervising Physician (SP) who was a licensed naturopathic physician who, after observing the PA perform Hi-Def liposuction, subsequently contacted his Board and discovered that he could not serve as the PA's SP and ultimately nullified their supervision agreement. Board staff reported that the PA's Delegation Agreement has not been updated, and that SIRC stated the Delegation Agreement with the naturopathic physician in 2019 was invalid in that the provider was not authorized to supervise a PA and liposuction was not within their scope of practice. SIRC found that the PA failed to ensure that the attending SP was trained and experienced in liposuction, and SIRC recommended a Letter of Reprimand and a \$2,000 Civil Penalty.

MOTION: Chairman Whitfield moved for the Board to accept the proposed Consent Agreement for Letter of Reprimand and Civil Penalty. PA Colgrove is assessed a \$2,000 Civil Penalty, to be paid by certified funds within 90 days.

SECOND: Dr. Averitte

Vice-Chairman Danielsen spoke in support of the motion. He stated that he was shocked to see that one of his colleagues was not aware that a naturopathic physician was not authorized to serve as a SP. Vice-Chairman Danielsen encouraged Board staff to add to the Board's public facing website information regarding who can and cannot serve as a SP. Ms. Zoneraich stated that she shared Vice-Chairman Danielsen's concerns, and stated that she believed the PA probably knew that a naturopath could not supervise this type of procedure.

VOTE: The following Board members voted in favor of the motion: Chairman Whitfield, Vice-Chairman Danielsen, Dr. Averitte, PA Clark, Dr. Dang, PA Shaff, PA Reina, and Ms. Zoneraich. The following Board member was absent: Dr. Kelly.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

3. PA-18-0015A, PA-19-0006A, SCOTT J. WOFFINDEN, P.A., LIC. #4966

Complainant JM addressed the Board during the Call to the Public. Attorney Scott King also addressed the Board during the Call to the Public.

Board staff summarized that case number PA-18-0015A was initiated based on a complaint reporting that PA Woffinden was referring CMS clients to a cash-only service that he owned. Three patients' charts were pulled for review and while no deviations were identified, the MC found that there was no evidence in the records that the patients were informed of the PA's financial interest in those services and there was no evidence of that disclosure.

The Board initiated case number PA-19-0006A after receiving a complaint regarding PA Woffinden's care and treatment of a 42 year-old female patient. The MC found that the PA deviated from the standard of care including inappropriate prescribing of controlled substances, lack of abdominal examination, failure to obtain records from prior pain management providers, delay in mental health referral, repetitive records, and inconsistent drug screens.

PA Woffinden signed a declaration that he would not prescribe controlled substances from April 11, 2020 through May 27, 2020, and was noted to have completed 22.75 hours of CME in controlled substances prescribing in April of 2020. Board staff queried the CSPMP database which showed that there was no prescribing of controlled substances. SIRC recommended a Letter of Reprimand with Probation to complete 10 hours of CME in medical recordkeeping and periodic chart reviews by the monitoring company.

MOTION: Chairman Whitfield moved for the Board to accept the proposed Consent Agreement for Letter of Reprimand and Two Year Probation. Within 12 months, complete no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding medical recordkeeping. The CME shall be in addition to the hours required for license renewal. Within 30 days, PA Woffinden shall enter into a contract with a Board-approved monitoring company to perform periodic chart reviews involving current patients' charts for care rendered after the date of completing the CME. After two consecutive favorable chart reviews, PA Woffinden may petition the Board for Probation termination.

SECOND: Ms. Zoneraich

VOTE: The following Board members voted in favor of the motion: Chairman Whitfield, Vice-Chairman Danielsen, Dr. Averitte, PA Clark, Dr. Dang, PA Shaff, PA Reina, and Ms. Zoneraich. The following Board member was absent: Dr. Kelly.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

K. LICENSE APPLICATIONS

i. APPROVE OR DENY LICENSE APPLICATION

1. PA-20-0009A, JANELLE M. HANNA, P.A., LIC. #N/A

Board staff summarized that PA Hanna disclosed prior Board action on her license application. In December of 2010, PA Hanna was issued a Letter of Reprimand by the South Dakota Board for practicing medicine with a practice agreement that had not been approved by the South Dakota Board. PA Hanna indicated that the mistake was due to her reliance on a staffing company that she employed to file the appropriate paperwork. Board staff added that PA Hanna has had no other issues reported since that time.

MOTION: Chairman Whitfield moved for the Board to approve the application.

SECOND: Dr. Averitte

VOTE: The following Board members voted in favor of the motion: Chairman Whitfield, Vice-Chairman Danielsen, Dr. Averitte, PA Clark, Dr. Dang, PA Shaff, PA Reina, and Ms. Zoneraich. The following Board member was absent: Dr. Kelly.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

OTHER BUSINESS

L. REQUEST FOR TERMINATION OF BOARD ORDER

1. PA-16-0095A, MAUREEN P. HAMEL-SCHWARTZ, P.A., LIC. #2552

Board staff summarized that on August 30, 2017, PA Hamel-Schwartz entered into a Consent Agreement for a Letter of Reprimand and Probation that required her to complete ProBE offered by CPEP. PA Hamel-Schwartz completed ProBE and requested termination of her Probation.

MOTION: Chairman Whitfield moved for the Board to grant the request to terminate the August 30, 2017 Board Order.

SECOND: Ms. Zoneraich

VOTE: The following Board members voted in favor of the motion: Chairman Whitfield, Vice-Chairman Danielsen, Dr. Averitte, PA Clark, Dr. Dang, PA Shaff, PA Reina, and Ms. Zoneraich. The following Board member was absent: Dr. Kelly.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. PA-17-0054A, KERRY D. MALIN, P.A., LIC. #5167

Board staff summarized that PA Malin entered into a Consent Agreement for a Letter of Reprimand and Five Year Probation on September 20, 2018. PA Malin was prohibited from prescribing controlled substances until obtaining CME in controlled substance prescribing and entering into an agreement with a Board-approved monitoring company for periodic chart reviews. On January 17, 2019, PA Malin provided certificates of the completion of the Board-ordered CME. Thereafter, PA Malin entered into a contract with the monitoring company and had two consecutive favorable chart reviews.

MOTION: Chairman Whitfield moved for the Board grant the request to terminate the September 20, 2018 Board Order.

SECOND: Vice-Chairman Danielsen

The Board noted the effective date of the Consent Agreement, and that PA Malin was short of halfway through the Five Year Probation. AAG Smith clarified that the terms of Probation that involve chart reviews are set out longer than anticipated in order to account for the potential of adverse chart reviews requiring MC review. Ms. Zoneraich noted that the allegations against the PA were serious and stated that she would be in support of the motion if the PA has satisfied all terms and conditions of the Board's Order. AAG Smith explained that the purpose of the chart reviews is to ensure that the licensee has incorporated the CME into their practice, and pointed out that the Board's Order allows the PA to request Probation termination after two consecutive successful chart reviews.

The Board's Chief Medical Consultant explained that he reviews the chart reviews conducted by the monitoring company and is the one who determines whether or not the reviews are favorable. Dr. Wolf stated that he determined that both chart reviews were favorable and was encouraged that the CPEP reviewer contacted the PA and discussed whatever concerns may have been raised.

VOTE: The following Board members voted in favor of the motion: Chairman Whitfield, Vice-Chairman Danielsen, Dr. Averitte, PA Clark, Dr. Dang, PA Shaff, PA Reina, and Ms. Zoneraich. The following Board member was absent: Dr. Kelly.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

3. PA-16-0076A, SHUREE K. OLDEHOEFT-OHLEMANN, P.A., LIC. #3164

MOTION: Chairman Whitfield moved for the Board to grant the request to terminate the November 13, 2019 Board Order.

SECOND: PA Clark

Board staff summarized that PA Oldehoeft-Ohlemann completed ProBE and received 25.25 CME credits in addition to completing 11.25 CME hours in billing and coding pursuant to the Board's Order. Board staff confirmed that the licensee has satisfied the terms of the Board's Order. Ms. Rivera clarified that the PA was issued a Letter of Reprimand and Probation to complete the Board-ordered CME within six months.

VOTE: The following Board members voted in favor of the motion: Chairman Whitfield, Vice-Chairman Danielsen, Dr. Averitte, PA Clark, Dr. Dang, PA Shaff, PA Reina, and Ms. Zoneraich. The following Board member was absent: Dr. Kelly.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

M. ADJOURNMENT

MOTION: Vice-Chairman Danielsen moved for adjournment.

SECOND: PA Reina

**VOTE: The following Board members voted in favor of the motion: Chairman Whitfield, Vice-Chairman Danielsen, Dr. Averitte, PA Clark, Dr. Dang, PA Shaff, PA Reina, and Ms. Zoneraich. The following Board member was absent: Dr. Kelly.
VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.**

The Board's meeting adjourned at 11:27 a.m.



Patricia E. McSorley, Executive Director

DRAFT