



Arizona Regulatory Board of Physician Assistants

1740 W. Adams St, Suite 4000, Phoenix, AZ 85007
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FINAL MINUTES FOR TELECONFERENCE MEETING Held on Wednesday, August 25, 2021 1740 W. Adams St., Board Room A, Phoenix, AZ 85007

Board Members

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

GENERAL BUSINESS

A. CALL TO ORDER

Chairman Whitfield called the virtual meeting to order at 10:01 a.m.

B. ROLL CALL

The following Board members participated in the virtual meeting: Chairman Whitfield, Vice-Chairwoman Reina, PA Clark, Dr. Dang, Dr. Danielsen, Dr. Kelly, PA Shaff and Ms. Zonerach.

ALSO PRESENT

The following Board staff and Assistant Attorney(s) General participated in the virtual meeting: Patricia McSorley, Executive Director; Kristina Fredericksen, Deputy Director; Carrie Smith, Assistant Attorney General ("AAG"); Raquel Rivera, Investigations Manager; William Wolf, M.D., Chief Medical Consultant; Michelle Robles, Board Operations Manager; and, Andrea Cisneros, Minutes Administrator.

C. CALL TO THE PUBLIC

No individuals addressed the Board during the Call to the Public.

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

- Update on Board Staffing and Processes
Executive Director McSorley reported that Evangeline Webster, Manager of Support Services, was retiring effective September 3, 2021 and that the position has been filled. She stated Michelle Butler joined the team and has been training in that position for the past month. Chairman Whitfield congratulated Ms. Webster and thanked her for her service to the Board over the years.
- Update on Board Meeting Schedule
Executive Director McSorley informed the Board that the November, 2021 meeting date was changed to November 3rd and would be held in person. She also reported that in the past week, three individuals in the building had tested positive for Covid.

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

- **Announcement of New Board Member Appointments**

Chairman Whitfield thanked the Board staff for their hard work and efforts in facilitating the Board's meetings and announced that the Board's next meeting will be held in person on November 3, 2021 with the appropriate social distancing measures in place.

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

G. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING FEE FOR TELEHEALTH REGISTRATION

Executive Director McSorley updated the Board regarding the telehealth registration and clarified that after collaborating with the Governor's Office and other state boards, it was determined that a fee could not be charged for the annual update/renewal of the telehealth registration. The Board recalled the previous action of approving an initial telehealth registration fee of \$200. Executive Director McSorley asked the Board to consider whether the new information warranted modification of that fee. She informed the Board that the statutory changes have allowed for formation of a committee to review the telehealth registration and that there may be some legislative changes in the future.

Chairman Whitfield suggested the Board proceed with the previously approved registration fee of \$200 and take no other action at this time.

H. REVIEW DISCUSSION AND POSSIBLE ACTION REGARDING THE 2020-21 ANNUAL REPORT

Executive Director McSorley referred the Board members to her report in the meeting materials and asked for any edits before submitting to the Governor's Office.

I. REVIEW DISCUSSION AND POSSIBLE ACTION REGARDING LANGUAGE FOR CONFIDENTIAL HEALTH QUESTIONS ON THE INITIAL APPLICATION AND RENEWAL APPLICATION

Executive Director McSorley reported that staff met with stakeholders and received input regarding the confidential health questionnaire included in both the initial and renewal applications. She added that the Arizona Medical Board recently amended the questions and she asked the Board to consider adopting those amendments. Executive Director McSorley clarified that the question places emphasis on whether the applicant *currently* has a medical condition that may impair their judgment or adversely affect their ability to practice medicine, and that the follow up question relating to whether they are currently subject to a monitoring agreement no longer asked "...within the past two years...".

Executive Director McSorley further clarified that the second question asked whether the individual was currently subject to a monitoring agreement in the event they answered in the affirmative to the first question, and that the Arizona Medical Board amended the question to focus on whether there is a current monitoring agreement in place.

MOTION: Chairman Whitfield moved for the Board to adopt the proposed language offered by the Executive Director.

SECOND: Dr. Danielsen

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

VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

J. APPROVAL OF MINUTES

- May 19, 2021 Teleconference Meeting
 - June 11, 2021 Teleconference Meeting
- MOTION: PA Shaff moved for the Board to approve the May 19, 2021 Teleconference Meeting and the June 11, 2021 Teleconference Meeting.**
- SECOND: Ms. Zonerach**
- VOTE: The following Board members voted in favor of the motion: Chairman Whitfield, Vice-Chairwoman Reina, PA Clark, Dr. Dang, Dr. Danielsen, Dr. Kelly, PA Shaff and Ms. Zonerach.**
- VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.**
- MOTION PASSED.**

LEGAL MATTERS

K. FORMAL INTERVIEWS

1. PA-20-0039B, JULIE F. SILVER, P.A., LIC. #2397

PA Silver and Attorney Dustin Krishna participated in the virtual meeting during the Board's consideration of this matter.

The Board observed that a complaint was received alleging that the PA inappropriately prescribed Phentermine. The Board's investigation revealed that PA Silver prescribed controlled substances to MF without documenting a physical examination and without the knowledge of her Supervising Physician ("SP"), and that she provided false information on her initial response to the complaint wherein she denied prescribing to the patient. It was not until an additional notification was sent to the PA that she admitted to prescribing for MF. PA Silver's documentation was found to be inadequate in that she failed to perform and document an examination or add the prescribed medications to MF's medical records. The Board noted that PA Silver was issued an Advisory Letter in 2016 for prescribing medications without establishing a patient-provider relationship.

PA Silver apologized for misleading the Board and stated that she takes this matter very seriously. She explained that she felt she was acting in good faith with MF, that she knew her very well and that she did not believe she was acting negligently or putting MF in harm's way. Mr. Krishna stated that this was PA Silver's first Board complaint, that she knows mistakes were made and that after retaining counsel, the PA provided a full and complete response to the Board. He added that PA Silver has discussed this with her SP and has voluntarily completed classes for documentation. PA Silver stated that she did not recall the previous Advisory Letter that was issued in 2016.

In response to PA Shaff's questioning, PA Silver stated that she was not aware if any of her SPs prescribed Phentermine for weight loss in their clinic, but that she believed it was okay for her to do so based on her 21 years of experience practicing as a PA. She recognized that she made a mistake and stated that she should have monitored and documented the patient's blood pressure. PA Shaff stated his concerns regarding the PA practicing outside her SP's scope of practice. PA Silver confirmed that she was aware Phentermine is a controlled substance and that she routinely checks the Controlled Substance Prescription Monitoring Program ("CSPMP"). Dr. Danielsen requested clarification as to whether the parties received the investigative file and Board staff confirmed that the case file is provided at the time of the meeting notice.

Dr. Dang stated his concerns that the PA failed to closely monitor some of the key areas in the medical field prior to prescribing the Phentermine. Vice-Chairwoman Reina recognized that PA Silver practiced in the field of dermatology, noted that some of the medications prescribed were outside the scope of dermatology and she questioned whether it was common practice within their clinic to provide care via telephone encounters. She also stated her concerns regarding the lack of documentation of any physical examinations, medical history and review of systems. PA Silver assured the Board that her practice has improved since the complaint was filed.

Ms. Zoneraich observed that PA Silver prescribed five different medications to MF on August 21, 2020, three of which were antibiotics. In response to questioning relating to the five prescriptions that were provided to MF on the same day, PA Silver stated that she did not recall the prescriptions and that while she was aware that the patient was previously taking medication for anxiety, she did not have any concerns prescribing her the Phentermine. In response to PA Clark's questioning, PA Silver reiterated that she had no recollection of the previous Advisory Letter. She confirmed that she was working at the same practice at the time of the prior case.

In closing, Mr. Krishner stated that the licensee was open and honest with the Board today, that she recognized her mistakes, pledged to implement more stringent documentation practices and has completed CME in documentation. He added that MF was very well known to PA Silver and that she was well aware of MF's health based on their discussions and frequent visits.

MOTION: PA Shaff moved for findings of unprofessional conduction in violation of A.R.S. § 32-2501(18)(c), (j), (p), (cc) and (ll) for reasons as stated by SIRC.

SECOND: Dr. Kelly

Ms. Zoneraich expressed concerns regarding the PA's misleading statements to the Board as well as the inappropriate prescribing to friends and colleagues. Ms. Zoneraich questioned whether there were any statutory violations that may have taken place in this case in addition to the potential violations cited by SIRC. AAG Smith clarified that motion cited the statutory violations as outlined by SIRC and that the Board had the ability to open a new case if the conduct today rises to the level of unprofessional conduct.

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

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

MOTION PASSED.

MOTION: PA Shaff moved for the Board to draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and Probation. Within six months, the PA shall complete the Professional/Problems-Based Ethics ("ProBE") program offered by CPEP. The CME hours shall be in addition to the hours required for license renewal. The licensee shall obtain an unconditional or conditionally passing grade. The Probation shall not terminate except upon affirmative request of the PA and approve by the Board.

SECOND: Dr. Dang

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

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

MOTION PASSED.

CONSENT AGENDA

L. CASES RECOMMENDED FOR DISMISSAL

1. PA-20-0052A, ALAN M. MOTUSH, P.A., LIC. #5416

Board staff summarized that the Medical Consultant ("MC") identified a concern that the patient's legal surrogate and decision maker was not personally contacted by the PA. Board staff reported that PA Motush acknowledged the concern and has reported that changes were made to his practice.

MOTION: Dr. Daneilsen moved for dismissal.

SECOND: Ms. Zoneraich

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

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

MOTION PASSED.

M. CASES RECOMMENDED FOR ADVISORY LETTERS

1. PA-21-0002A, MICKAELA O'SULLIVAN O'NEILL, P.A., LIC. #7271

The Board observed that the delegation agreement was lacking in this case.

MOTION: Dr. Danielsen moved for the Board to issue an Advisory Letter for performing health care tasks without an annually updated delegation agreement. There is insufficient evidence to support disciplinary action.

SECOND: Vice-Chairwoman Reina

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

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

MOTION PASSED.

2. PA-20-0041A, STEPHANIE OTT, P.A., LIC. #6471

Board staff summarized that the MC found the PA failed to recognize abnormally high testosterone levels with delay in diagnosis. SIRC identified mitigating factors and recommended the issuance of an Advisory Letter.

MOTION: Chairman Whitfield moved for the Board to issue an Advisory Letter for failing to recognize an abnormal laboratory value in a patient which resulted in a delay of a patient's diagnosis. There is insufficient evidence to support disciplinary action.

SECOND: Ms. Zonerach

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

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

MOTION PASSED.

N. CASES RECOMMENDED FOR ADVISORY LETTERS WITH NON-DISCIPLINARY CONTINUING MEDICAL EDUCATION ORDER

1. PA-20-0086A, JYOTI SHARMA, P.A., LIC. #6613

PA Shaff noted that the PA completed the recommended CME in recordkeeping and he spoke in favor of issuing the recommended Advisory Letter only.

MOTION: PA Shaff moved for the Board to issue an Advisory Letter for inadequate medical records and insufficient development of differential diagnosis. While the licensee has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for discipline, the Board believes that repetition of the activities that led to the investigation may result in further Board action against the licensee.

SECOND: PA Clark

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

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

MOTION PASSED.

2. PA-20-0043A, DHARMENDRA N. BHAKTA, P.A., LIC. #2465

The Board observed that this matter stemmed from a case involving a physician where it was alleged that the PA failed to disclose financial interest in the company to which the patient had been referred. Board staff stated that the PA's direct financial interest was clear based on his investment in exchange for membership interest per the 2017 agreement. PA Bhakta has not provided the requested information to demonstrate what changes have been implemented to inform patients and SIRC determined that CME was warranted to address the ethical deficiencies identified in this case. Ms. Rivera informed the Board that the PA submitted supplemental information that included a notice to patients, and that the recommendation from SIRC stands.

MOTION: Chairman Whitfield moved for the Board to issue an Advisory Letter and Order for Non-Disciplinary CME for failing to disclose financial interest in a treatment facility prior to referring a patient. 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 CPEP's ProBE course in ethics. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Ms. Zoneraich

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

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

MOTION PASSED.

O. LICENSE APPLICATIONS

i. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING RENEWAL APPLICATION AND CONSIDERATION OF RECOMMENDED ADVISORY LETTER

1. PA-20-0057A, KELLY A. MCMILLAN, P.A., LIC. #3594

The Board observed that PA McMillan disclosed on her 2020 renewal application resignation from her employment while under investigation regarding the treatment of a patient in 2019. Peer review records were obtained and reviewed by a Medical Consultant who found that the PA failed to obtain a CT scan on a pediatric patient presenting with signs and symptoms of appendicitis. SIRC recommended granting the renewal and issuing an Advisory Letter.

MOTION: Dr. Danielsen moved for the Board to grant the license renewal and issue an Advisory Letter for failing to obtain a CT scan on a pediatric patient presenting with signs and symptoms of appendicitis. There is insufficient evidence to support disciplinary action.

SECOND: Vice-Chairwoman Reina

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

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

MOTION PASSED.

ii. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING APPLICATION FOR LICENSURE AND CONSIDERATION OF RECOMMENDED ADVISORY LETTER

1. PA-21-0070A, KIM N. LE, PA-C, LIC. #N/A

The Board observed that the PA inadvertently allowed their license to lapse for a period of seven days. Chairman Whitfield noted that the PA has met all requirements for licensure and spoke in favor of approving the application and issuing an Advisory Letter as recommended by the Executive Director.

MOTION: Chairman Whitfield moved for the Board to grant licensure and issue an Advisory Letter for practicing with an expired license and for not having a delegation agreement in place when she began working at the health care center. While the licensee has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the Board believes that repetition of the activities that led to the investigation may result in further Board action against the licensee.

SECOND: Dr. Danielsen

PA Shaff commented that Board staff does their due diligence to notify licensees that their license renewal is due, including the issuance of several notices. He stated that licensees are ultimately responsible for timely renewal. PA Clark agreed with PA Shaff's comments and stated that PAs need to be responsible and proactive with their state licensure. Vice-Chairwoman Reina suggested conducting short presentations for PA graduates relating to regulation and licensure. Executive Director McSorley reported that Ms. Rivera presents the information to graduating classes, and Ms. Rivera stated that she would be happy to coordinate with anyone who wished to receive such a presentation.

Dr. Danielsen commented that Board staff has done a good job over the years with regard to informing the regulated community and providing the information through outreach.

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

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

MOTION PASSED.

Dr. Dang stated that he agreed licensees are responsible for their renewal and proposed the Board consider requiring completion of a law exam specific to Arizona statutes relating to PAs.

2. PA-21-0068A, NATALIE K. JOHNS, PA-C, LIC. #N/A

MOTION: Chairman Whitfield moved for the Board to grant the license and issue an Advisory Letter for practicing with an expired license. While the licensee has demonstrated substantial compliance through rehabilitation and remediation that has mitigated the need for disciplinary action, the Board believes that repetition of the activities that led to the investigation may result in further Board action against the licensee.

SECOND: PA Clark

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

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

MOTION PASSED.

iii. **REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING APPLICANT'S REQUEST FOR WAIVER PURSUANT TO A.R.S. § 32-4303**

1. CAROL S. THOMAS, P.A., LIC. #N/A

PA Thomas addressed the Board during the Call to the Public portion of the virtual meeting.

Ms. Zonerach was recused from this matter.

The Board discussed and considered whether PA Thomas' experience and training qualified her for an Arizona PA license. The Board noted that she currently meets all other requirements for licensure. It was noted that PA Thomas previously practiced and held licensure as an allopathic physician in three different states, and that she allowed her license to lapse for a significant period of time due to family reasons. Executive Director McSorley asked the Board to consider whether to grant or deny the waiver requested by PA Thomas pursuant to A.R.S. § 32-4303.

Dr. Danielsen recognized PA Thomas' training experience as an allopathic physician and that she has been out of practice for around twenty years. He recalled that the Board has historically requested completion of competency evaluations in similar instances involving PA applicants to determine their ability to perform healthcare tasks. AAG Smith clarified that the Board was considering two issues, one of which involved the applicant's waiver request regarding education, training and experience. She stated that the second issue involved the time out of practice and competency, which she recommended the Board to consider addressing separately from the applicant's waiver request.

Dr. Danielsen spoke in favor of the Board finding that the applicant's prior experience as an allopathic physician met the equivalency of completing PA school. Dr. Danielsen also emphasized that one important factor of PA education was the culturalization of how to work in a collaborative environment. Dr. Kelly recognized that the applicant's previous postgraduate training subjected her to working in a collaborative environment and functioning within that hierarchy of practice. Dr. Kelly opined that he found the PA's training was adequate. PA Shaff stated that he agreed with other members' comments and that he believed the applicant met the education and training requirements for PA licensure.

MOTION: PA Shaff moved for the Board to find that the applicant has presented satisfactory evidence of equivalent education, training and experience.

SECOND: PA Clark

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

VOTE: 6-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.

MOTION PASSED.

Dr. Danielsen clarified that the Board's finding of equivalent training does not allow this individual the eligibility to take the national certification examination for PAs. He stated that PANCE does not allow individuals who have not graduated from an accredited program to take the exam.

AAG Smith clarified that the Board's previous motion granted the applicant's waiver of education and training requirements and that the Board has not yet granted this individual an Arizona license. She asked the Board to consider whether the applicant's time out of practice warranted a competency evaluation prior to consideration of licensure. Executive Director McSorley suggested the Board return this matter for further investigation for SIRC to consider and make recommendations regarding competency concerns.

The Board discussed returning the case to interview the applicant to determine her base knowledge. Dr. Danielsen spoke in favor of the Board considering requiring the applicant to complete a PACE evaluation. Executive Director McSorley proposed inviting the applicant to appear before the Board for a

Licensing Interview after further review by SIRC. Dr. Kelly spoke in support of proceeding with a Licensing Interview after the matter is returned to SIRC.

PA Shaff questioned the standards for returning to work after being out of the medical field for a number of years and whether the applicant understood working in the capacity of a PA and the appropriate boundaries needed to work under an SP. Dr. Wolf commented that there are important differences to note with regard to PAs and allopathic physicians in terms of fund of knowledge. He informed the Board that the Arizona Medical Board requires individuals out of practice for less than two years to complete the SPEX exam prior to consideration of licensure, and individuals out of practice for more than five years to complete a competency evaluation.

MOTION: Chairman Whitfield moved for the Board to return this matter to SIRC for recommendations regarding assessment of competency and any other concerns relating to licensure.

SECOND: Dr. Kelly

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

VOTE: 7-yay, 0-nay, 0-abstain, 1-recuse, 0-absent.

MOTION PASSED.

P. ADJOURNMENT

MOTION: Ms. Zonerach moved for the Board to adjourn.

SECOND: Vice-Chairwoman Reina

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

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

MOTION PASSED.

The Board's meeting adjourned at 12:13 p.m.




Patricia E. McSorley, Executive Director