



## **Arizona Regulatory Board of Physician Assistants**

1740 W. Adams St, Suite 4000, Phoenix, AZ 85007  
Telephone: 480-551-2700 • Fax: 480-551-2702 • www.azpa.gov

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### **FINAL MINUTES FOR TELECONFERENCE MEETING Held on Wednesday, August 24, 2022 1740 W. Adams St., Board Room A, Phoenix, AZ 85007**

#### **Board Members**

Susan Reina, P.A.-C, Chair  
John J. Shaff, PA-C, D.F.A.A.P.A., Vice-Chair  
Levente G. Batizy, D.O.  
David J. Bennett, D.O.  
Kendra Clark, P.A.-C  
Kevin K. Dang, Pharm D.  
Michelle DiBaise, D.H.S.c., P.A.-C., D.F.A.A.P.A.  
Shiva K. Y. Gosi, M.D., M.P.H., F.A.A.F.P., C.P.E.  
Beth E. Zonerach

#### **GENERAL BUSINESS**

##### **A. CALL TO ORDER**

Chairwoman Reina called the meeting to order at 10:01 a.m.

##### **B. ROLL CALL**

The following Board members participated in the virtual meeting: Chairwoman Reina, Vice-Chair Shaff, Dr. Batizy, Dr. Bennett, PA Clark, Dr. Dang, PA DiBaise, Dr. Gosi and Ms. Zonerach.

##### **ALSO PRESENT**

The following Board staff and Assistant Attorney(s) General were present: Patricia McSorley, Executive Director; Kristina Jensen, Deputy Director; Carrie Smith, Assistant Attorney General ("AAG"); Raquel Rivera, Investigations Manager; William Wolf, M.D., Chief Medical Consultant and Michelle Robles, Board Operations Manager.

##### **C. CALL TO THE PUBLIC**

Individuals who 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 Room A

Ms. Jensen reported that new furniture has been added however, half of the new chairs were broken and had to be returned. There have been setbacks with audio and video equipment due to supply chain issues. Ms. Jensen stated that the goal is for a November in person meeting.

- Update on Board Processes and Staffing

No update was given.

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

- Introduction of New Board Member

Chairwoman Reina welcomed Michelle DiBaise and Amanda Graham.

- Acknowledgment of Dr. Wolf's Service

Chairwoman Reina acknowledged and thanked Dr. Wolf's for his service to the Board.

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

No report was given.

#### **G. REVIEW, DISCUSSION, AND POSSIBLE ACTION REGARDING DRAFT SUBSTANTIVE POLICY STATEMENT #7 TO ADDRESS LAPSED LICENSES**

Ms. McSorley informed the Board that this policy statement is being put forward to address the situation regarding when a PA has inadvertently allowed their license to lapse. Statute requires the PA to start the application process from the beginning and then brought to the Board for consideration. If accepted, staff can grant the license once complete and the investigation will come to the Board at the next meeting to determine if sanction is warranted. Typically, the Board issues an advisory letter since it is a violation of the medical practice act to practice on an expired license. Ms. McSorley opined that this is a good solution to address the issue.

**MOTION: PA Shaff moved to approve the draft Substantive Policy Statement #7 to Address Lapsed Licenses.**

**SECOND: Dr. Bennett.**

**VOTE: The following Board members voted in favor of the motion: Chairwoman Reina, Vice-Chair Shaff, Dr. Batizy, Dr. Bennett, PA Clark, Dr. Dang, PA DiBaise, Dr. Gosi and Ms. Zoneraich.**

**VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.**

**MOTION PASSED.**

PA Shaff acknowledged that although this is a huge help it does not negate the PA's responsibility to renew.

#### **H. APPROVAL OF MINUTES**

- May 11, 2022 Teleconference Meeting, including Executive Session

**MOTION: Dr. Batizy moved to approve the May 11, 2022 Teleconference meeting, including executive session.**

**SECOND: Dr. Bennett.**

**VOTE: The following Board members voted in favor of the motion: Chairwoman Reina, Vice-Chair Shaff, Dr. Batizy, Dr. Bennett, PA Clark, Dr. Dang, PA DiBaise, Dr. Gosi and Ms. Zoneraich.**

**VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.**

**MOTION PASSED.**

### **LEGAL MATTERS**

#### **I. FORMAL INTERVIEWS**

1. PA-21-0017A, FRANCIS R. LUCIANO, P.A., LIC. #5965  
PA Luciano participated virtually without counsel.

Board staff summarized that on February 25, 2021, the Board received a complaint from the Section Chief/Supervising Physician of the Cancer Center where PA Luciano held privileges, reporting that PA Luciano had mismanaged patient care which appeared to have led to a delay in the appropriate evaluation and treatment, which potentially led to a poor patient outcome. Following an internal investigation, the recommendation was for separation of employment with the Cancer Center and reporting to the Board. During the investigation, Board staff obtained a copy of the Delegation Agreement between the supervising physician and PA Luciano and noted that the delegation agreement was not signed by PA Luciano or the supervising physician and it was not dated. A Medical Consultant (MC) was asked to review the quality of care concerns regarding patient BB. BB was a 27-year-old male with a PMH of Leukemia diagnosed in June of 2018. BB was transfusion dependent and was seen in the clinic three times weekly. On September 2, 2020, BB was noted to be shortness of breath and hypoxic and was taken to the ER. BB was hospitalized and started on Meropenem, Zyvox and Levaquin along with

Posaconazole. He was also treated with Cytarabine and Venetoclax and underwent a bronchoscopy. BB developed worsened shortness of breath on September 7 and his O2 requirements increased. He was transferred to the ICU the morning of September 8th and a CTA showed worsening and more confluent ground glass opacities. BB required intubation that evening. Posaconazole was replaced with Amphotericin and support care was provided. BB's oxygenation improved, and he was extubated on September 10th and was subsequently transferred out the ICU. BB developed increased hypoxia and required 12L O2 per Ventimask the evening of September 11th but improved by the following morning. By September 13th, supplemental O2 was noted to be down to 2L-3L. WBC was less than 0.1 and Platelet count was 4. By the early evening, BB was requiring 4-5L of O2. Though not documented, PA Luciano reported that BB had refused ICU transfer and intubation. PA Luciano was notified that BB required a Nonrebreather at 15 liters and had a respiratory rate of 40. Nursing staff recommended ICU transfer. BB's O2 saturations dropped to the high 80s and PA Luciano ordered BiPAP which BB did not tolerate. PA Luciano stated that he had contacted the hospitalist and ED physician in the early AM hours and subsequently contacted the staff physician. PA Luciano provided several orders for hypotension, tachypnea, agitation and hypoxia, but BB continued to decline, and a chest X-ray showed worsened infiltrates. At 6AM, BB reportedly agreed to go to the ICU. The charge nurse was made aware of the planned transfer and PA Luciano went to check on a new admission in the ED. The morning PA then took over and agreed to place the transfer orders, and PA Luciano left the hospital for his two weeks off. BB was transferred to the ICU in early morning of September 14th. BB was intubated and had hypotension post intubation and required pressors. He became bradycardic and coded. Resuscitation efforts were unsuccessful, and BB was pronounced dead. The MC noted that on 9/15/2020 an anonymous user described interchanges with the night shift PA in which the PA had asked the patient why he was breathing so fast and had told the patient to stop breathing so fast. Nurses had also expressed their desire to upgrade the patient to a higher level of care numerous times and the night shift PA was not in agreement. The MC also noted that while PA Luciano was on administrative leave and was off for two weeks, he had worked at another facility where he had failed to resume tube feedings via PEG for a different patient. PA Luciano had subsequently denied working at another facility during his administrative leave. The MC stated that PA Luciano failed to transfer a very ill patient with acute respiratory failure and severe immunosuppression to the ICU in a timely manner. The MC also noted that there was no documentation of the patient's refusal for transfer/intubation or of discussions with other physicians. The MC additionally expressed concerns that PA Luciano left the patient's bedside to see another patient after BB had agreed to ICU transfer.

In an opening statement, PA Luciano stated that he does not believe a reprimand is appropriate but agreed to take the recommended CME. PA Luciano explained that BB stated multiple times that he did not want to be intubated. This was relayed to the supervising physician who stated that that the patient could not be placed on DNI since he was receiving treatment. PA Luciano explained that on September 13<sup>th</sup> he received a message from the ICU doctor stating do not send any patients to the ICU who are not intubated. PA Luciano explained that he had everything ready for ICU transfer, but the patient did not want to go or to be intubated. This was submitted to Banner throughout their investigation process and therefore nothing resulted from the investigation. PA Luciano stated that he was in communication with the supervising physician and acted accordingly. PA Luciano noted that he was the one who was bedside with the patient and ultimately was the one to convince him to agree to the transfer. PA Luciano stated that he reported to the day shift what occurred and even clarified who should enter the orders. PA Luciano informed the Board of when the Banner investigation started after his leave. PA Luciano clarified that a delegation agreement was signed during the onboarding process and he was supposed to receive an electronic copy but didn't. He received a copy of the second delegation agreement that was unsigned, which was an update to the previous agreement.

During questioning, PA Luciano explained that his delay in responding to the Board's investigation was due to needing to update his mailing address to himself and not to his place of employment. At that time he did respond to the Board but assumed everything was resolved since he had provided everything to the Banner administration. PA Luciano explained his workload at the time of the case and that he had been willing to stay on the morning of September 13<sup>th</sup> and even asked if he needed to put in a note and orders. He confirmed via text with Dr. Go that the dayshift was going to put orders in and that he was heading out. PA Luciano explained that he called down to the ER around 6:00 a.m. after BB had agreed to go and called the ICU doc to make him aware. The ER doctor told him there was an incoming patient, that needed to be transferred up and that he was critical. PA Luciano explained that when he went down to check on the patient he was supposed to go to the medical oncology team so he then went back up to the office to start placing orders. The charge nurse called him and let him know the incoming ICU doctor is aware and they can get BB transferred. PA Luciano explained that he did not document every conversation with BB due to being instructed, as the night staff, to document when admitting or transferring a patient or upgrading a patient to the ICU. PA Luciano agreed that he is responsible for his documentation. PA Luciano informed the Board of his interactions with his attending, and noted that he was given specific instructions that if the patient were to deteriorate like he did the night before, provide supportive treatment like and that's exactly what he did. PA Luciano reiterated that he regrets not documenting everything and his staff and patient interactions.

PA Shaff inquired about why the text and emails he has referenced regarding his interactions with his supervising physician were not submitted.

PA Luciano explained that this is a new situation to him, but he is willing to send them in now.

PA Shaff noted that there is an explanation in the file regarding the missing delegation agreement and that it was an error.

Board staff clarified that PA Luciano was late in responding to the investigation and noted that the investigator made multiple attempts to reach out and request a response. The Board Operations Manager reached out once the investigation was completed. Board staff also noted that PA Luciano was sent a notice letter requesting a supplemental response both to the delegation agreement and the MC's report. No supplemental response was provided. Board staff noted that PA Luciano did not disclose the existence of text messages during the course of the Board's investigation.

PA Luciano noted that he did respond via email regarding the delegation agreement and explained that he did not have access to the medical records or his work email.

PA Shaff expressed the importance of keeping your information up to date with the Board.

In closing, PA Luciano stated that he should not be reprimanded and that he provided information to the investigator when he could and did the best that he could. PA Luciano stated that he was sorry for BB's outcome but commented that he followed the direction of his supervising physician and the patient.

In closing, Board staff stated that none of the interactions with BB, the ER physicians and supervising physician were documented. Board staff additionally stated that there is documentation from the Supervising Physician where she stated that she did not have this information and there is no documentation that the patient refused intubation.

PA Luciano explained that he spoke with one of the nurses, who stated that she did tell the Cancer Center that the patient did not want to go to the ICU or be intubated. PA Luciano confirmed that the DNI was not documented but the patient stated multiple times, refusing to go to the ICU and refusing to be intubated.

**MOTION: Dr. Bennet moved for a finding of unprofessional conduct in violation of A.R.S. § 32-2501(18)(j), (p) and (aa) for reasons as stated by SIRC.**

**SECOND: Dr. Batizy.**

PA Shaff commented regarding to the delegation agreement violation that there was an email from the administrative assistant in the Board file that there was a signed copy which PA Luciano did not have. PA Shaff opined that it is a mitigating factor. Dr. Bennett agreed that the violation of § 32-2501(17)(aa) should be removed from the motion.

PA Clark commented regarding the violation of § 32-2501(17)(j), it is hard to know the impact of COVID on mixed messages from the various departments, physicians and the feedback from his supervising physician. PA Clark noted that per PA Luciano's testimony, he followed his supervising physician's orders. Ms. Zoneraich commented that although the patient said he did not want to be intubated, there is evidence that the nurses felt uncomfortable with the decision not to move the patient into the ICU. The nurses and the PA did not document the refusal, which is critical to the case. PA Shaff acknowledged that there are mitigating factors, but things did occur that might be harmful to the safety of the patient and agreed that mitigating information was not documented. PA Shaff opined that there was a violation of § 32-2501(27)(j) . PA Reina acknowledged the stress and extra work from COVID; however, it is the provider's duty to document critical steps and conversations to protect the provider and the patients. PA Reina opined the documentation was lacking. PA Clark commented that this was a perfect storm that led to the patient's demise.

**VOTE: The following Board members voted in favor of the motion: Chairwoman Reina, Vice-Chair Shaff, Dr. Batizy, Dr. Bennett, PA Clark, Dr. Dang, PA DiBaise, Dr. Gosi and Ms. Zoneraich.**

**VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.**

**MOTION PASSED.**

Dr. Bennett found SIRC's recommendation appropriate.

**MOTION: Dr. Bennett moved for a draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and Probation. Within six months, complete no less than 3 hours of Board staff pre-approved Category I CME in the evaluation and management of respiratory distress, and complete no less than 3 hours of Board staff pre-approved Category I CME in medical record documentation. The CME hours shall be in addition to the hours required for license renewal. The Probation shall terminate upon proof of successful completion of the CME coursework.**

**SECOND: Dr. Batizy.**

PA Shaff noted that the primary job of the Board is to protect the public and although there was a lack of documentation, there are mitigating factors. PA Shaff agreed with the recommended CME but opined that the Letter of Reprimand and Probation exceeds what it necessary and a non-disciplinary Advisory Letter with CME is more appropriate. Dr. Bennett noted that the supervising physician has sent information on multiple cases and was concerned with the PA's care of multiple patients. PA Shaff commented that this information was sent in after he left the position and that this care can be due to hindsight and is unrelated to the case. PA Clark acknowledged the favorable evaluations as stated in PA Luciano's statements.

Board staff noted that the only documentation received is regarding the peer review and corroborating documents regarding his staff evaluations was not provided.

**VOTE: The following Board members voted in favor of the motion: Chairwoman Reina, Dr. Batizy, Dr. Bennett, Dr. Dang and Dr. Gosi. The following Board members voted against the motion: Vice-chair Shaff, PA Clark, PA DiBaise and Ms. Zoneraich.**

**VOTE: 5-yay, 4-nay, 0-abstain, 0-recuse, 0-absent.**

MOTION PASSED.

## CONSENT AGENDA

### J. CASES RECOMMENDED FOR DISMISSAL

1. PA-21-0100A, NATHANIEL A. WELLY, P.A., LIC. #3406

**MOTION:** PA Shaff moved to dismiss.

**SECOND:** Dr. Dang.

**VOTE:** The following Board members voted in favor of the motion: Chairwoman Reina, Vice-Chair Shaff, Dr. Batizy, Dr. Bennett, PA Clark, Dr. Dang, PA DiBaise, Dr. Gosi and Ms. Zoneraich.

**VOTE:** 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

**MOTION PASSED.**

### K. CASES RECOMMENDED FOR ADVISORY LETTERS

**MOTION:** Dr. Batizy moved to issue an Advisory Letter in item numbers 1-4.

**SECOND:** PA Shaff.

**VOTE:** The following Board members voted in favor of the motion: Chairwoman Reina, Vice-Chair Shaff, Dr. Batizy, Dr. Bennett, PA Clark, Dr. Dang, PA DiBaise, Dr. Gosi and Ms. Zoneraich.

**VOTE:** 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

**MOTION PASSED.**

1. PA-21-0059A, SCOTT J. WOFFINDEN, P.A., LIC. #4966

Counsel Scott King addressed the Board during the Call to Public portion of the meeting.

**RESOLUTION:** Advisory Letter for inconsistent documentation. 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.

2. PA-21-0083A, SAMANTHA M. DORMAN, P.A., LIC. #5276

**RESOLUTION:** Advisory Letter for failing to document the patient's history of substance abuse in the diagnostic assessment and for failing to complete annual labs to address possible medical side effects from prescribed medications. 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.

3. PA-21-0119A, KARLA N. FRICK, P.A., LIC. #2722

**RESOLUTION:** Advisory Letter for prescribing a medication without an established relationship and failing to maintain medical records. 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.

4. PA-21-0079A, LISA M. ALLEN, P.A., LIC. #6140

Counsel Michael Goldberg addressed the Board during the Public Statements portion of the meeting on behalf of the PA.

**RESOLUTION:** Advisory Letter for failing to treat two patients while on shift and for performing health care tasks without a signed delegation agreement. 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.

## **L. LICENSE APPLICATIONS**

### **i. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING LICENSE APPLICATION AND CONSIDERATION OF RECOMMENDED ADVISORY LETTER**

**MOTION:** PA Shaff moved to grant the license and issue an Advisory Letter in item numbers 1 and 2.

**SECOND:** PA Clark.

**VOTE:** The following Board members voted in favor of the motion: Chairwoman Reina, Vice-Chair Shaff, Dr. Batizy, Dr. Bennett, PA Clark, Dr. Dang, PA DiBaise, Dr. Gosi and Ms. Zoneraich.

**VOTE:** 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

**MOTION PASSED.**

#### **1. PA-22-0064A, DANIELLE B. HARTLE, P.A., LIC. #N/A**

**RESOLUTION:** Grant the license and issue an Advisory Letter for practicing with an expired license. 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.

#### **2. PA-22-0067A, ROSALIND M. HUFF, P.A., LIC. #N/A**

PA Huff addressed the Board during the Public Statements portion of the meeting. Matt Anderson addressed the Board during the Public Statements on behalf of the PA.

**RESOLUTION:** Grant the license and issue an Advisory Letter for practicing with an expired license. 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.

## **OTHER BUSINESS**

### **M. REQUEST FOR TERMINATION OF BOARD ORDER**

#### **1. PA-19-0084A, DANIEL R. BALLARD, P.A., LIC. #6152**

**MOTION:** PA Shaff moved to grant the request for termination of the February 24, 2021 Board Order.

**SECOND:** Dr. Bennett.

**VOTE:** The following Board members voted in favor of the motion: Chairwoman Reina, Vice-Chair Shaff, Dr. Batizy, Dr. Bennett, PA Clark, Dr. Dang, PA DiBaise, Dr. Gosi and Ms. Zoneraich.

**VOTE:** 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

**MOTION PASSED.**

### **N. ADJOURNMENT**

**MOTION:** Ms. Zoneraich moved for the Board to adjourn.

**SECOND:** Dr. Bennett

**VOTE:** The following Board members voted in favor of the motion: Chairwoman Reina, Vice-Chair Shaff, Dr. Batizy, Dr. Bennett, PA Clark, Dr. Dang, PA DiBaise, Dr. Gosi and Ms. Zoneraich.

**VOTE:** 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

**MOTION PASSED.**

The Board's meeting adjourned at 11:47 a.m.



*Patricia E. McSorley*  
Patricia E. McSorley, Executive Director