



Arizona Regulatory Board of Physician Assistants

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FINAL MINUTES FOR REGULAR SESSION MEETING Held on Wednesday, August 30, 2023 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.
Amanda Graham, P.A.
Beth E. Zoneraich

GENERAL BUSINESS

A. CALL TO ORDER

Chairwoman Reina called the meeting to order at 10:05 a.m.

B. ROLL CALL

The following Board members participated in the meeting: Chair Reina, PA Shaff, Dr. Batizy, Dr. Dang, PA DiBaise, Dr. Gosi, PA Graham and PA Zoneraich.

The following Board member was absent: Dr. Bennet and PA Clark.

ALSO PRESENT

The following Board staff and Assistant Attorney(s) General were present: Kristina Jensen, Deputy Director; Carrie Smith, Assistant Attorney General ("AAG"); Raquel Rivera, Investigations Manager; Joseph McClain, 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

- Discussion Regarding Meeting Calendar for 2024

Board staff noted that there is limited availability for Board Room A in November 2024 and provided alternative dates for the Board's consideration.

MOTION: PA Shaff moved to approve the Calendar with the December 4, 2024 date.

SECOND: PA Graham.

VOTE: The following Board members voted in favor of the motion: Chair Reina, PA Shaff, Dr. Batizy, Dr. Dang, PA DiBaise, Dr. Gosi, PA Graham and PA Zoneraich. The following Board member was absent: Dr. Bennet and PA Clark.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

MOTION: PA Shaff moved to approve the February 28, 2024, May 29, 2024, and August 28, 2024, meeting dates.

SECOND: Dr. Dang.

VOTE: The following Board members voted in favor of the motion: Chair Reina, PA Shaff, Dr. Batizy, Dr. Dang, PA DiBaise, Dr. Gosi, PA Graham and PA Zoneraich. The following Board member was absent: Dr. Bennet and PA Clark.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

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

No report was given.

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

No report was given.

G. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING RULES FOR THE IMPLEMENTATION OF HB2043 AND COLLABORATIVE PRACTICE BY PHYSICIAN ASSISTANTS

PA Melinda Rawcliffe from ASAPA addressed the Board during the Public Statements portion of the meeting.

Ms. McSorley reported that the JLRC and staff have been working to create a set of proposed rules to meet the requirements of the statute. Rule 1 would address the initial certification process. The Board will maintain a register of certified PAs on the Board's website. Ms. McSorley further explained Rule 2 which would identify the PA's area of practice as determined between the PA and the collaborating physician/entity.

PA Shaff explained that under the proposed rules, once the initial 8000 hours is certified the PA would not have to repeat 8000 hours in another field before being allowed to practice collaboratively, but will require a sign off in the new area by the collaborating physician/entity.

Ms. McSorley noted that a new collaborative agreement will be needed for each new employer, any training or education needed is best identified by the collaborating physician in discussion with the PA. Ms. McSorley confirmed that the liability remains with the PA.

Ms. Zoneraich expressed concern with regulations that would leave the decision-making on training and education at the practice level without additional oversight from the Board. PA Reina noted that the collaborating physician and PA would have to agree and that a collaborating physician/entity would have the option of requiring a supervision agreement until the PA has reached the skill to work collaboratively PA Shaff opined that there is some onus on the next physician who signs off and says it is okay. PA DiBaise noted that there is a credentialing process in hospital settings, so there are checks and balances. Ms. Zoneraich commented that procedures can take place out of the hospital setting and there would be no government or DHS oversight. Ms. Zoneraich opined that the lack of oversight could be a risk to the public. Ms. Zoneraich also expressed concern regarding allowing for teaching hours to count toward certification. PA Reina stated that this is not independent practice and that there is oversight. Dr. Gosi agreed that teaching hours are significantly different than clinical hours and that if a PA is changing to a substantially different area there should be some sort of supervision. PA Reina explained that per the statute if a PA changes to a substantially different area of practice, the need for a supervision agreement can be discussed at the practice level before changing to collaborative practice. PA Shaff opined that there are more checks and balances with this agreement than the current practice.

Ms. McSorley noted that the statute does not specify that the 8000 must be in a specific field but generally requires 8000 hours in clinical practice. The proposed rules contemplate that when the

collaborating PA makes the initial engagement with a collaborating physician, they establish the area that the PA will be practicing in. Ms. McSorley noted the statute language for switching to a substantially different area of practice. She further noted that the drafted rule does contemplate switching areas and there is room for a supervising agreement if the physician opines that the PA is not sufficiently trained in that area.

PA Graham noted that if a physician does not want to collaborate with a PA, they do not have to. Ms. Zoneraich opined that there is a financial incentive to utilize PAs in the office setting, and therefore this gives that physician the ability to have more PAs without the liability. Dr. Dang noted that this current method of collaboration is being used in other states.

Ms. McSorley confirmed that collaborative practice is currently being done in seven states.

Dr. Dang requested that ASAPA provide data on how this is working in those states for the Board's review. Dr. Dang commented that the PA will have to assess their own ability since if they make a mistake, they hold all the liability and can potentially lose their license. Dr. Dang stated that he was in agreement with allowing the PA and physician to use their own clinical judgment.

Ms. McSorley explained that Rule 3 permits multiple collaborative agreements, and each new collaborative physician or entity requires an agreement that recognizes the PA is working under a collaboration agreement with an entity or physician. Rule 5 contemplates broadening the timeframe for accumulating the hours to ten years and that didactic hours can contribute towards the 8000-hour requirement.

Ms. Zoneraich expressed concern regarding the ten-year timeframe as there can be a large gap in practice.

Ms. McSorley reiterated that this goes back to what agreement is used with the physician or entity.

PA Shaff noted that the license has to remain active and that there are provisions in place if a PA lets their license lapse. PA Reina noted that a PA can keep the license active by taking CMEs even if they aren't actively practicing.

H. APPROVAL OF MINUTES

- May 31, 2023 Regular Session Meeting

MOTION: Ms. Zoneraich moved to approve the May 31, 2023 Teleconference meeting.

SECOND: Dr. Batizy.

VOTE: The following Board members voted in favor of the motion: Chair Reina, PA Shaff, Dr. Batizy, Dr. Dang, PA DiBaise, Dr. Gosi, PA Graham and PA Zoneraich. The following Board members were absent: Dr. Bennet and PA Clark.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

LEGAL MATTERS

I. FORMAL INTERVIEWS

1. PA-22-0024A, CHRISTOPHER M. BERO, P.A., LIC. #5861
PA Bero was present with counsel Jeffrey McLerran.

Board staff summarized that the Board is considering this case in which patient LT's left total knee arthroplasty site was diagnosed with an infection approximately 1.5 years after its implantation. SIRC determined that an allegation against PA Bero for failure to non-invasively investigate evidence suggesting the presence of infection was supported and recommended CME hours addressing PA Bero's inconsistent medical records. Board staff summarized the case findings, and noted that the Medical Consultant ("MC") opined that PA Bero deviated from the standard of care by failing to follow-up into bone scan results, though this was ordered for the contralateral knee all sites containing foreign

materials were at risk. T In addition, the MC cited the PA's decision to attempt aspirations three times at a site of foreign body implants, and then fail to submit the one successfully obtained sample, was inconsistent with the standard of care. The failure to obtain and follow-up with abnormal infection markers obtained in an ER visit known to have occurred while the patient's pain increased and function decreased failed to meet the standard of care. Finally, the MC noted that inaccurate and inconsistent documentation would make it difficult for a subsequent provider to know exactly what happened and when, including in-office procedures and laboratory obtained test results.

PA Bero provided an opening statement where he requested that the case be dismissed. PA Bero acknowledged that in hindsight he could have done things differently but believes that in the face of such an atypical presentation the outcome would not have changed. PA Bero informed the Board of LT's presentations during the follow up visits and addressed the MC's findings. PA Bero stated that he has made efforts to improve his charting and that he no longer uses a scribe. He has also decreased his volume and spends thirty minutes per visit. PA Bero stated that he has already completed the recommended CME for records and wound control.

During questioning, PA Shaff acknowledged that this was a challenging case.

PA Bero acknowledged that the documentation errors are ultimately his fault as he approves what the scribe writes. PA Bero clarified that on the second aspiration the physician was not there but confirmed that he does discuss the cases with his supervising physician every day. PA Bero agreed that in hindsight he should have sent the 5ccs of fluid for testing. PA Bero informed the Board that the first aspiration was inarticulate, the second was superficial and the third was inarticulate and done after the IND. PA Bero explained that a bone scan was ordered for the right knee but once LT complained of left knee pain the right knee was tabled. PA Bero confirmed that there is not always a physician on site and that Friday he was there himself. PA Bero informed the Board of his rationale for prescribing Augmentin. PA Bero explained that he had opined that this was arthrofibrosis being managed long-term and therefore changed the antibiotic after the dry aspiration. The patient did report improvement after the medication change. Infection is always on the differential which is why he attempted the aspiration. PA Bero stated that the subjective findings made this a complicated case.

PA Shaff inquired about the choice made by the Supervising Physician and the phone call to the patient's husband to not proceed with the explant.

Pa Bero stated that he was in the operating room during the debridement and once the decision was made by the Supervising Physician and the patient's husband they closed the patient back up.

PA Shaff commented that this did not change the ultimate outcome but with the exception of timing.

PA Bero agreed that the issue is regarding timing.

In closing, Mr. McLerran stated that PA Bero has taken responsibility for his action and taken the recommended CME. Mr. McLerran stated that this does not warrant discipline and noted that the Medical Board dismissed the case regarding the supervising physician.

In closing, Board staff noted that arthrofibrosis was never documented.

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

SECOND: Dr. Dang.

VOTE: The following Board members voted in favor of the motion: Chair Reina, PA Shaff, Dr. Batizy, Dr. Dang, PA DiBaise, Dr. Gosi, PA Graham and PA Zoneraich. The following Board members were absent: Dr. Bennet and PA Clark.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

PA Shaff acknowledged the CME that has been completed by PA Bero.

MOTION: PA Shaff moved to issue an Advisory Letter for failing to check infection markers and consider obtainment of a knee arthrogram to aid in determining the presence and/or extent of the infection or a fistula and inadequate documentation. 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: PA DiBaise.

Ms. Smith explained that this motion is a non-disciplinary outcome versus the Letter of Reprimand recommendation by staff, which is disciplinary.

Ms. Zoneraich opined that there should have been sooner intervention and asking for assistance. The lack to obtain help led to this patient suffering for longer. Dr. Batizy opined that the Supervising Physician was involved in the care and that the Board must look at the role of the supervising physician and the PA. Dr. Batizy spoke in favor of the motion.

VOTE: The following Board members voted in favor of the motion: Chair Reina, PA Shaff, Dr. Batizy, PA DiBaise, Dr. Gosi, PA Graham and PA Zoneraich. The following Board member voted against the motion: Dr. Dang. The following Board members were absent: Dr. Bennett and PA Clark.

VOTE: 7-yay, 1-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

CONSENT AGENDA

J. CASES RECOMMENDED FOR DISMISSA

MOTION: PA Shaff moved to dismiss in item numbers 1 and 2.

SECOND: Ms. Zoneraich.

VOTE: The following Board members voted in favor of the motion: Chair Reina, PA Shaff, Dr. Batizy, Dr. Dang, PA DiBaise, Dr. Gosi, PA Graham and PA Zoneraich. The following Board members were absent: Dr. Bennet and PA Clark.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

1. PA-22-0059A, CHRISTOPHER J. COSTELLO, P.A., LIC. #7505

RESOLUTION: Dismissed.

2. PA-22-0043A, DEVON J. AUTH, P.A., LIC. #5342

M.B. addressed the Board during the Call to Public Statements portion of the meeting.

RESOLUTION: Dismissed.

K. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: PA Shaff moved to issue an Advisory Letter in item numbers 1-4.

SECOND: PA DiBaise.

VOTE: The following Board members voted in favor of the motion: Chair Reina, PA Shaff, Dr. Batizy, Dr. Dang, PA DiBaise, Dr. Gosi, PA Graham and PA Zoneraich. The following Board member was absent: Dr. Bennet and PA Clark.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

1. PA-22-0047A, MARIO R. MUNOZ, P.A., LIC. #3490

RESOLUTION: Advisory Letter for failing to report felony and misdemeanor charges within ten days as required by statute. 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-22-0060A, CHAD N. SIEVERS, P.A., LIC. #7233

RESOLUTION: Advisory Letter for action taken by the Montana Board. 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.

3. PA-23-0026A, ASHLEY N. CIALLELLA, P.A., LIC. #7475

RESOLUTION: Advisory Letter for performing health care tasks without an appropriate delegation agreement and for failing to timely update addresses on file with the Board. 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-23-0063A, MARIANNE CONTRERAS, P.A., LIC. #4274

RESOLUTION: 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.

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

1. PA-22-0092A, PA-22-0086A, PA-22-0062A, MARK R. SCOTT, P.A., LIC. #2319

MOTION: PA Shaff moved to issue an Advisory Letter and Order for Non-Disciplinary CME for inadequate 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. Within six 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 hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Batizy.

VOTE: The following Board members voted in favor of the motion: Chair Reina, PA Shaff, Dr. Batizy, Dr. Dang, PA DiBaise, Dr. Gosi, PA Graham and PA Zoneraich. The following Board members were absent: Dr. Bennet and PA Clark.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

M. PROPOSED CONSENT AGREEMENTS (Disciplinary)

1. PA-21-0078A, PA-21-0055A, PA-22-0049A, PA-22-0068A, SCOTT J. WOFFINDEN, P.A., LIC. #4966

MOTION: PA Shaff moved to accept the proposed consent agreement for a Decree of Censure.

SECOND: Ms. DiBaise.

VOTE: The following Board members voted in favor of the motion: Chair Reina, PA Shaff, Dr. Batizy, Dr. Dang, PA DiBaise, Dr. Gosi, PA Graham and PA Zoneraich. The following Board members were absent: Dr. Bennet and PA Clark.

**VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.
MOTION PASSED.**

N. LICENSE APPLICATIONS

i. APPROVE OR DENY LICENSE APPLICATION

1. PA-23-0060A, ELIZABETH N. ADY, P.A., LIC. #N/A

MOTION: PA Shaff moved to grant the license.

SECOND: Dr. Dang.

VOTE: The following Board members voted in favor of the motion: Chair Reina, PA Shaff, Dr. Batizy, Dr. Dang, PA DiBaise, Dr. Gosi, PA Graham and PA Zoneraich. The following Board members were absent: Dr. Bennet and PA Clark.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

OTHER BUSINESS

O. ADJOURNMENT

MOTION: PA Shaff moved for the Board to adjourn.

SECOND: PA Graham.

VOTE: The following Board members voted in favor of the motion: Chair Reina, PA Shaff, Dr. Batizy, Dr. Dang, PA DiBaise, Dr. Gosi, PA Graham and PA Zoneraich. The following Board members were absent: Dr. Bennet and PA Clark.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

The Board meeting adjourned at: 11:44 am





Patricia E. McSorley, Executive Director