



Arizona Regulatory Board of Physician Assistants

1740 W. Adams St, Suite 4000, Phoenix, AZ 85007
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DRAFT MINUTES FOR REGULAR SESSION MEETING Held on Wednesday, November 29, 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 10:04 p.m.

B. ROLL CALL

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

The following Board members were absent: Dr. Gosi and Ms. Zoneraich.

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; 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

No report given.

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

No report given.

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

- 2023 Legislative Advice Memorandum

Ms. Smith provided a 2023 legislative update for review. All statutes went into effect on October 30, 2023 and most are administrative. Ms. Smith informed the Board of the changes in HB204, regarding the definition for supervising physician agreements and noted that it goes into effect on December 31, 2023. Starting January 1, 2024, agreements should be amended to be in line with the statute change.

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

Ms. Kaitlin Bezuyan, Ms. Melinda Rawcliffe from ASAPA and Dr. Valerie Miranda addressed the Board during the Call to the Public portion of the meeting.

Ms. McSorley informed the Board that one modification is to include the definition of good standing. A PA cannot have a pending investigation, current investigation, or disciplinary action. The collaborative agreement is an agreement between the PA and the employer or collaborating physician. The PA would apply to the Board and submit the hours for certification. Board staff will determine if those hours meet the requirement. The Board will certify the PA to be able to work as a collaborative PA but it is at the practice level to determine the scope of practice and needs to be set forth in the individualized agreement. If changing from one specialty to another the collaborating physician will determine at the practice level if additional training is needed and will have the option to have a supervisory agreement in place. Ms. McSorley noted that given all the changes, a FAQ for the collaborative practice and supervised practice will be posted to the Board's website.

PA Shaff noted that if a physician has worked 8000 hours it is approximately equivalent to four years of full-time practice.

Ms. McSorley confirmed that she will also provide the FAQs through an email blast.

MOTION: PA Shaff moved to approve the rules for the implementation of HB2043 and the amendments.

SECOND: PA Clark.

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

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

MOTION PASSED.

H. APPROVAL OF MINUTES

- August 30, 2023 Regular Session Meeting

MOTION: Dr. Batizy moved to approve the August 30, 2023 Regular Session meeting.

SECOND: PA Clark.

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

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

MOTION PASSED.

LEGAL MATTERS

I. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION ON THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION

Possible action includes, but is not limited to, adopting Findings of Fact, Conclusions of Law and Order.

Pursuant to A.R.S. § 41-1092.08(i), the Board may meet and confer for purposes of modifying the recommended decision, including the Findings Of Fact, Conclusions Of Law and Recommended Order set forth in the ALJ's recommended decision issued in case no. 23A-8510-PAB involving Wagner Gervais, PA and in case no. 23A-8463-PAB involving Herold Pierre-Louis, PA.

1. PA-21-0101A, WAGNER GERVAIS, P.A., LIC. #8510

PA Gervais was not present. Counsel Michael Goldberg participated virtually on behalf of the PA. AAG Elizabeth Campbell was present on behalf of the State and AAG Diane DeDea was present as the Board's Independent Legal Advisor.

Ms. Campbell stated that there is a recommended decision by the Administrative Law Judge (ALJ) for Revocation. Ms. Campbell requested an amendment in Findings of Fact 6 for clarity and completeness regarding the description of unprofessional conduct as alleged in the complaint and notice of hearing. Ms. Campbell also requested that the Board amend the ALJ's Conclusion of Law. Principally, the Board should interpret the statute to require that an applicant establish residency as a condition for granting the license under the Universal Recognition pathway. Ms. Campbell noted that the PA had the option to apply for licensure through the traditional licensure pathway under the Board statutes if he had not established residency. Ms. Campbell requested that the Board adopt the ALJ's recommended order for Revocation with the requested modifications and to include the Board's costs for the hearing, which is permitted by the Board's statutes.

Mr. Goldberg provided an opening statement to the Board. Mr. Goldberg stated that the statute does not say an applicant has to establish residency before they apply. Mr. Goldberg stated that this case is going to go for review and the court can determine what the statute means. Mr. Goldberg requested that the Order go up on appeal the way it is. Mr. Goldberg opined the process has not been followed the way it should be. Mr. Goldberg opined that revocation is not appropriate and noted that the ALJ finding a deficiency in the statute shows that it is not clear. Mr. Goldberg opined that it is the job of the legislature not the Board to determine the intent of the statute. Mr. Goldberg requested the board not revoke the license and that the order go on appeal.

Ms. Campbell noted that there are two issues, first the ALJ found that PA Gervais lied to the Board and second, PA Gervais did not establish residency in Arizona. The State does not preclude applicants that aren't Arizona residents from getting licensed in Arizona. Applicants who chose not to become an Arizona resident can use the traditional pathway for licensure. Ms. Campbell informed the Board that it has the authority to accept, reject, or modify any aspect of the ALJ's recommendation by statute. Ms. Campbell requested that the Board amend the portion of the ALJ's recommended conclusions of law regarding PA Gervais having to establish residency in Arizona as a condition for obtaining a licensure under the Universal Recognition pathway.

MOTION: PA Shaff moved to adopt the attached proposed Findings of Fact including the modifications requested by the State and initiate the meet and confer process.

SECOND: Dr. Dang.

PA Shaff inquired if the PA can withdraw his application and go through the initial application process at this point.

Ms. DeDea confirmed that that is not an option at this point.

MOTION: Dr. Bennet moved for the Board to enter into Executive Session to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(3).

SECOND: Dr. Bennett.

VOTE: The following Board members voted in favor of the motion: Chairman Whitfield, PA Reina, Dr. Batizy, Dr. Dang, Dr. Danielsen, Dr. Gosi, Dr. Kelly, PA

Shaff and Ms. Zoneraich. The following Board members were absent: Dr. Bennett and PA Clark.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

The Board entered into Executive Session at 11:02 a.m.

The Board returned to Open Session at 11:29 a.m.

No legal action was taken by the Board during Executive Session.

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

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

MOTION PASSED.

MOTION: PA Shaff moved to adopt the attached proposed Conclusions of Law modifying the ALJ's Recommended Decision as requested by the State and initiate the meet and confer process.

SECOND: PA Clark.

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

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

MOTION PASSED.

MOTION: PA Shaff moved to adopt the ALJ recommendation for revocation. The Respondent shall be assessed the costs of the formal hearing incurred by the Board of \$1436.80.

SECOND: PA Clark.

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

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

MOTION PASSED.

During the Meet and confer process

Ms. Campbell, on behalf of the State, encouraged the Board to accept the modifications as requested.

Mr. Goldberg objected to the modifications as the process today was not the correct one. Mr. Goldberg opined that the Board does not have the authority to modify the ALJ's order and that if the statute needs to be interpreted it shall be done by the legislature.

MOTION: PA Shaff moved to adopt the attached proposed Findings of Fact, Conclusions of Law and Order, which incorporates the requested amendments.

SECOND: Dr. Batizy.

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

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

MOTION PASSED.

2. PA-21-0099A, HEROLD PIERRE-LOUIS, P.A., LIC. #8463

PA Pierre-Louis was not present. Counsel Michael Goldberg participated virtually on behalf of the PA. AAG Elizabeth Campbell was present on behalf of the State and AAG Diane DeDea was present as the Board's Independent Legal Advisor.

AAG Campbell informed the Board that the arguments that the Respondent makes are the same as the previous case. PA Pierre-Louis' council claims that there is prejudice, however this is not true. PA Pierre-Louis' council was provided a copy of the State's position on ALJ's recommended decision and was given an opportunity to respond and did so. Ms. Campbell requested a minor amendment in Finding of Fact 8 to protect the PA's privacy by removing his New York home address. Ms. Campbell also requested a minor amended to the Conclusions of Law paragraph 11 for clarity of the established violation. In the recommended order Ms. Campbell requested that the Board accept the recommended order for revocation and to include the costs of the hearing.

Mr. Goldberg requested that the Board not adopt the ALJ's recommended discipline as the statute is not clear on what must happen prior to accepting employment. The PA listed a real address and testified that he didn't stay there but thought that met the statutory requirement. PA Pierre-Louis is in a residency program and the revocation will devastate that path. PA Pierre-Louis has no disciplinary actions on his healthcare records to indicate a revocation is warranted. Mr. Goldberg opined that revocation is not a proportionate discipline.

AAG Campbell stated that Revocation is appropriate in this case as PA Pierre-Louis does not meet the requirements of the license he was given. If he was not an Arizona resident he could have pursued licensure through the traditional pathway. Under the Universal Recognition pathway, Arizona residency is required for licensure. Ms. Campbell noted that the other issue in this case is the PA's honesty; nothing that truthfulness is a cornerstone to the Board's ability to regulate a licensee.

MOTION: PA Shaff moved to adopt the attached proposed Findings of Fact including the modifications requested by the State and initiate the meet and confer process.

SECOND: PA Clark.

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

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

MOTION PASSED.

MOTION: PA Shaff moved to adopt the attached proposed Conclusions of Law modifying the ALJ's Recommended Decision as requested by the State and initiate the meet and confer process.

SECOND: PA Clark.

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

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

MOTION PASSED.

MOTION: PA Shaff moved to adopt the ALJ recommendation for revocation. The Respondent shall be assessed the costs incurred by the Board of \$1,778.30.

SECOND: PA Clark.

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

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

MOTION PASSED.

Meet and confer process:

AAG Campbell requested that the Board accept the ALJ's recommendation with the proposed modifications by the state.

Mr. Goldberg did not object to the change to the findings of fact, but objected to modifications to the COL.

MOTION: PA Shaff moved to adopt the attached proposed Findings of Fact, Conclusions of Law and Order, which incorporates the requested amendments.

SECOND: PA Clark.

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

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

MOTION PASSED.

J. FORMAL INTERVIEWS

1. PA-22-0083A, VINCENT J. TAPIA, P.A., LIC. #2400
PA Tapia was present without counsel.

Board staff summarized that the Board received a notice from the Pharmacy Board that PA Tapia was non-compliant with the mandatory use requirements for the Arizona Controlled Substance Prescription Monitoring Program ("CSPMP"). Board staff reviewed a CSPMP report for PA Tapia from October 2021 to October 2022 and selected 5 patients for review. Board staff reviewed PA Tapia's prescribing in these cases. SIRC discussed the case and observed PA Tapia's report that he had only utilized the CSPMP as an extra tool and used it as he felt necessary, which SIRC found concerning considering because the patients were being prescribed multiple controlled substances over long periods of time. SIRC observed that recent CSPMP data has confirmed that after the investigation, PA Tapia appears to be consistently utilizing the CSPMP. SIRC recommended returning the case to investigation to obtain an MC review of the 5 patients. A Medical Consultant ("MC") determined that PA Tapia deviated from the standard of care by failing to utilize the CSPMP, by prescribing high doses of opioids without documentation of referrals to a pain specialist, for concurrent prescribing of benzodiazepines, opioids, and muscle relaxants, inadequate monitoring, and inadequate documentation. PA Tapia responded that he has made the CSPMP system a daily part of his regimen in screening patients receiving controlled substances. SIRC discussed the case and remained concerned regarding the deviations identified. SIRC observed that the MC also identified irregular use of controlled substance agreements as well as a lack of documentation related to medication changes, alternatives attempted, or the patient responses to treatment. SIRC stated that based on the concerning and repetitive deviations identified, this case rises to the level of discipline and requires education and remediation.

In an opening statement, PA Tapia stated that he understands the requirements of the CSPMP report and has been more diligent in querying the CSPMP. PA Tapia informed the Board that his goal is to provide his patients adequate care and improve quality of life. PA Tapia explained that he does not want to criminalize his patients for taking opioids or narcotic medications.

During questioning, PA Tapia stated that he does not have special training in pain management but has completed continuing medical education (CME) in pain management. PA Tapia explained that the electronic filing system (EMR) he utilizes does not have CSPMP software incorporated but he is in the process of adding it. PA Tapia mentioned that he did not refuse to use the CSPMP report but referred to it as a tool. PA Tapia clarified for the Board that his medical practice is an internal medicine practice and

estimated about 30 percent of the patients are on narcotic medications. PA Tapia also clarified that the patients seen by him are not strictly his but the whole practice, which means all providers have seen these patients depending on availability. PA Tapia noted that the availability and wait time for appointments to see a pain management specialist can be daunting. PA Tapia stated that there is no protocol in place for urine drug screens but informed the Board that after going through this process, his practice is now implementing more protocols. PA Tapia confirmed that there have been no bad patient outcomes.

PA Shaff commented that PA Tapia's practice does a fair amount of pain management and noted it is the PA's obligation to have appropriate protocols in place. PA Shaff further noted that some of these protocols regarding UDS, monitoring or drug amount have not been implemented yet and it is the Board's job is to protect the public. Dr. Dang commented that pharmacists question patients who come into the pharmacy with multiple prescriptions for narcotics because of drug interactions and it is for their protection, not for criminalization of the patient. PA Graham commented that although there is a lack of pain specialist availability, referrals should be made when appropriate.

PA Tapia informed the Board that since becoming aware of the CSPMP requirement he does not query every patient due to time constraints but for about 99 percent of his patients.

Chair Reina commented that changes need to be made in the office's policies and procedures to protect the public as mistakes can take a life.

During deliberations, Dr. Dang opined that PA Tapia clearly violated the state law requiring to the CSPMP.

MOTION: Dr. Dang moved for a finding of unprofessional conduct in violation of A.R.S. §§ 32-2501(18)(a) for a violation of A.R.S. § 36-2606(F),(J), and (p)).

SECOND: PA Shaff.

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

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

MOTION PASSED.

MOTION: Dr. Dang moved for a draft Findings of Fact, Conclusions of Law and Order for Two Year Probation. Within six months, PA Tapia shall complete no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding medical recordkeeping, and complete no less than the 15 hour of Board staff pre-approved Category I CME in an intensive, in-person course regarding controlled substance prescribing. The CME hours shall be in addition to the hours required for license renewal. Within thirty days of completing the Board ordered CME, PA Tapia shall enter into a contract with a Board approved monitoring company to perform periodic chart reviews, at the physician assistant's expense. After two consecutive favorable chart reviews, PA Tapia may petition the Board to terminate the Probation. PA Tapia shall not request early termination of Probation without having completed the chart review process. The Probation shall not terminate except upon affirmative request of the physician assistant and approval by the Board.

SECOND: Dr. Clark.

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

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

MOTION PASSED.

2. PA-20-0006A, MICHAEL M. ABRAHAM, P.A., LIC. #5934
PA Abraham was present with counsel Flynn Carey.

Board staff summarized that this case was initiated on January 31, 2020, after receipt of a non-compliance report from PA Abraham's PHP Monitor who reported that PA Abraham had presented to work impaired. PA Abraham subsequently failed to check into the testing website, and he notified the relapse prevention group facilitator that he would not attend that Friday's meeting. The PHP Monitor found that PA Abraham was not safe to practice until he obtained a comprehensive evaluation. After meeting with the PHP Contractor on January 31, 2020, PA Abraham was arrested and charged with DUI which he failed to timely report. Effective February 4, 2020, PA Abraham entered into an Interim Consent Agreement for Practice Restriction. Shortly thereafter, PA Abraham surrendered his DEA registration and his pharmacist license with the AZ Pharmacy Board. By November 14, 2022, PA Abraham had completed treatment and started IOP along with private PHP Monitoring. On December 2, 2022, PA Abraham requested that Board staff lift his restriction. The PHP Monitor found that PA Abraham was safe to return to practice medicine if he enters into 5 years of PHP monitoring and complete workplace evaluations for the first 3-6 months of practice with chart review by his supervisor. Effective April 25, 2023, PA Abraham entered into an Interim Consent Agreement for PHP Participation with an Amended Interim Practice Restriction prohibiting him from prescribing or having access to controlled substances in the workplace. This mirrored his Decree of Censure with restriction from case MD-18-0038A. Board staff considered whether PA Abraham's relapse in this case should be considered as his third strike. PA Abraham has not yet completed one PHP Agreement with this Board. PA Abraham has requested that his final agreement not include the practice restriction prohibiting him from prescribing controlled substances. The Board's PHP Monitor is supportive of PA Abraham's return to the practice of medicine without the restriction on controlled substances.

Mr. Carey provided an opening statement to the Board where he stated that they do not disagree with monitoring but requested that PA Abraham be allowed to have prescribing privileges. Mr. Carey noted that Dr. Sucher opined that PA Abraham is safe to practice and prescribe controlled substances. Mr. Carey noted that he will be monitored by his employer and the Board. Mr. Carey stated that the Board allowing him to prescribe would be the first step to clearing an obstacle for PA Abraham as he would still need to obtain a DEA license. Mr. Carey requested that the Board allow PA Abraham to prescribe to seek a DEA license.

PA Abraham provided an opening statement to the Board and requested that he be allowed the opportunity to prescribe controlled substances again. PA Abraham stated that he has learned a great deal from his addiction and hopes to give back to his community. PA Abraham informed the Board that he is 16 months sober and informed the Board of the activities he continues to partake in that are key to his recovery. PA Abraham agreed that monitoring is one of those key activities. PA Abraham requested that he be allowed to prescribe controlled substances and work in addiction medicine to help those with this disease.

During questioning, PA Abraham informed the Board that he works at Scottsdale Recovery and works under one Supervising Physician. He does not hold hospital privileges. PA Abraham explained that his Supervising Physician is the director of Scottsdale Recovery and at Banner hospital and in the event of a patient undergoing detoxing, it can delay care to wait for his Supervising Physician to prescribe the controlled substance. PA Abraham stated that he also sees patients in an outpatient setting. There are controlled substances locked in the fridge at the practice which he does not have access to. PA Abraham confirmed that his Supervising Physician is aware that he may not be able to prescribe controlled substances for a period of 5 years depending on the outcome of the formal interview. PA Abraham acknowledged that a relapse can result in

an interim summary suspension of his license. PA Abraham explained that he struggled with tapering off Suboxone in the past due to withdrawal and his obsession to use. PA Abraham informed the Board that he is confident that his obsession has been removed and that he would not relapse on Suboxone. PA Abraham informed the Board of his reasoning use of Kratom and that he wasn't familiar with the drug and dosage. PA Abraham explained that he wasn't working as a pharmacist in 2017 and voluntarily surrendered his pharmacy license.

PA Shaff noted the third strike policy and that there is a possibility of losing his license in the event of a relapse. PA Shaff expressed concern regarding removing guardrails when there is a possibility of relapse.

PA Abraham stated that he is grateful that he can still practice and that 100 percent of his charts are being reviewed by his supervising physician. PA Abraham explained that he is requesting the ability to prescribe controlled substances to best treat his patients. PA Abraham further explained that a Supervising Physician is not always onsite and therefore he needs to be able to have prescribing abilities. PA Abraham stated that his supervising physician is willing to sign off on all his charts.

In closing, PA Abraham stated that he is thankful to continue practicing and is confident in his ability to stay in recovery.

MOTION: Dr. DiBaise moved for a finding of unprofessional conduct in violation of A.R.S. §§ 32-2501(18)(a) for a violation of A.R.S. § 32-3208(A), (d), (j), (q) and (ee).

SECOND: PA Shaff.

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

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

MOTION PASSED.

MOTION: Dr. DiBaise moved for a draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure with Minimum Five-Year Probation with terms and conditions consistent with his Interim Order. PA Abraham shall enter into a Practice Restriction prohibiting him from prescribing controlled substances or having access to them in the workplace and limiting his performance of health care tasks to a group setting during the time of probation. In addition, the Supervising Physician shall submit quarterly reports confirming PA Abraham's compliance with the workplace restriction. PA Abraham shall not request early termination of Probation. The Probation shall not terminate except upon affirmative request of the physician assistant and approval by the Board. PA Abraham's request for termination shall be accompanied by recommendation from his PHP Contractor stating that monitoring is no longer required.

SECOND: PA Shaff.

PA Graham spoke in favor of allowing PA Abraham to prescribe control substances. PA Clark agreed with granting that option with the understanding that the DEA process is still forthcoming. PA DiBaise spoke in favor of allowing prescribing but not access to the locked drugs on the practice's premises.

Mr. Carey noted that the DEA would not grant a license with a restriction.

Board staff stated that how the order is written now the Board would get quarterly reports from his supervising physician. If the restriction is removed, the Board can still request quarterly reports from the supervising physician and the Board can change the recommendations to monitor his prescribing. Board staff further clarified that at this point PA Abraham has not met the third strike policy and SIRC included the third strike language as the Board telling the PA this is your last chance.

PA Smith clarified that counsel's request is to allow PA Abraham to obtain a DEA license and to do so he cannot be prohibited from prescribing medications. As board staff stated there are other ways to monitor the PA in lieu of restriction.

Dr. Batizy opined that the restriction is a moot point; if the PA relapses and meets the third strike policy he will lose his license.

VOTE: The following Board members voted against the motion: PA Reina, PA Shaff, Dr. Batizy, Dr. Bennett, PA Clark, Dr. Dang, Dr. DiBaise and PA Graham. The following Board members were absent: Dr. Gosi and Ms. Zonerach.

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

MOTION FAILED.

MOTION: Dr. DiBaise moved for a draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure with Minimum Five-Year Probation with terms and conditions consistent with his Interim Order. PA Abraham's Supervising Physician shall perform routine reviews of PA Abraham's care and treatment of his patients to evaluate his controlled substance prescribing. PA Abraham shall cause his Supervising Physician to provide quarterly reports to the Board or at any time the Supervising Physician has concerns regarding PA Abraham's prescribing of controlled substances. PA Abraham shall not request early termination of Probation. The Probation shall not terminate except upon affirmative request of the physician assistant and approval by the Board. PA Abraham's request for termination shall be accompanied by a recommendation from his PHP Contractor stating that monitoring is no longer required.

SECOND: PA Shaff.

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

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

MOTION PASSED.

CONSENT AGENDA

K. CASES RECOMMENDED FOR ADVISORY LETTERS

1. PA-22-0085A, RISE CURIEL, P.A., LIC. #6994

PA Curiel and counsel Steve Perlmutter addressed the Board during the Call to Public statements portion of the meeting.

MOTION: PA Shaff moved to issue an Advisory Letter for prescribing a medication without an established physician patient relationship and for acting outside the scope of his delegation agreement. 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. Dang.

PA Shaff agreed that the PA acted in good faith, provided good care and had excellent notes however, it was against statute and was not a delegated task or within the scope of practice. Dr. Dang opined that to dismiss would set a bad precedence. PA Clark stated that the spirit of the law is not the same as the letter of the law and the PA must follow the statute.

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

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

MOTION PASSED.

2. PA-22-0072A, ELIZABETH G. ABBOTT, P.A., LIC. #7732

MOTION: PA Shaff moved to issue an Advisory Letter for failing to timely report a misdemeanor charge. 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.

SECOND: Dr. Dang.

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

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

MOTION PASSED.

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

1. PA-21-0114A, ERIC E. COLE, P.A., LIC. #3789

MOTION: PA Shaff moved to issue an Advisory Letter and Order for Non-Disciplinary CME for prescribing high dose opioids without clinical justification, inadequate monitoring of patients prescribed controlled substances, and 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 15 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding controlled substance prescribing; 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 hours shall be in addition to the hours required for license renewal.

SECOND: PA Graham.

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

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

MOTION PASSED.

M. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

1. PA-23-0014A, BAHMAN NAJI-TALAKAR, P.A., LIC. #2738

MOTION: PA Shaff moved to uphold the dismissal.

SECOND: Dr. Batizy.

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

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

MOTION PASSED.

N. LICENSE APPLICATIONS

i. APPROVE OR DENY LICENSE APPLICATION

1. PA-23-0087A, JORDAN W. SCHENK, P.A., LIC. #N/A

MOTION: PA Clark moved to grant the license.

SECOND: Dr. Bennett.

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

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

MOTION PASSED.

O. ADJOURNMENT

MOTION: PA Shaff moved for adjournment.

SECOND: PA Clark.

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

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

MOTION PASSED.

The Board meeting adjourned at: 11:22 am



Patricia E. McSorley, Executive Director