Arizona Regulatory Board of Physician Assistants

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DRAFT MINUTES FOR REGULAR SESSION MEETING Held on Wednesday, August 27, 2014 9535 E. Doubletree Ranch Road · Scottsdale, Arizona 85258

Board Members
Geoffrey W. Hoffa, DHSc, PA-C, DFAAPA, Chair
Myles A. Whitfield, P.A.-C, Vice Chair
Carole A. Crevier
Charles Finch, D.O.
Thomas E. Kelly, M.D.
Sheldon G. Liechty, PA-C
Kit C. McCalla, D.O.
Gary A. Smith, M.D., F.A.A.F.P.
Jacqueline J. Spiegel, M.S., P.A.-C, DFAAPA
Patrick J. Van Zanen

GENERAL BUSINESS

A. CALL TO ORDER

Chairman Hoffa called the meeting to order at 1:00 p.m.

B. ROLL CALL

The following Board members were present: Ms. Crevier, Chairman Hoffa, Dr. Kelly, PA Liechty, Dr. Smith, PA Spiegel, and PA Whitfield. The following Board members were absent: Dr. Finch, Dr. McCalla, and Mr. Van Zanen.

ALSO PRESENT

Add Dennis; John Tellier, Assistant Attorney General (AAG); Carrie Smith, AAG; C. Lloyd Vest, ll, Executive Director; Pat McSorley, Deputy Executive Director; Anita Shepherd, Investigations Office Manager; Celina Shepherd, Licensing Office Manager; Mary Bober, Board Operations Manager; and Andrea Cisneros, SIRC Coordinator.

C. CALL TO THE PUBLIC

Individuals that spoke during the call to the public appear beneath the case referenced.

D. REPORT TO THE ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS (ARBOPA) FROM MEMBERS OF THE COMMITTEE ON EXECUTIVE DIRECTOR SELECTION AND RETENTION FOR REVIEW, DISCUSSION AND POSSIBLE ACTION

MOTION: Chairman Hoffa moved to enter into Executive Session pursuant to A.R.S. §§ 32-431.03(A)(1) and 32-1431(A)(3), and A.R.S. § 32-1403(G).
SECOND: PA Whitfield
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

The Board entered into Executive Session at 1:10 p.m.
The Board returned to Open Session at 1:36 p.m.
No legal action was taken by the Board during Executive Session.

E. STAFF PERFORMANCE/EXECUTIVE DIRECTOR PERFORMANCE FOR DISCUSSION AND POSSIBLE ACTION

MOTION: Chairman Hoffa moved to enter into Executive Session pursuant to A.R.S. §§ 32-431.03(A)(1) and 32-1431(A)(3).

SECOND: Ms. Crevier
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

The Board entered into Executive Session at 1:36 p.m.
The Board returned to Open Session at 3:20 p.m.
No legal action was taken by the Board during Executive Session.

MOTION: PA Whitfield moved to adopt a position of no confidence in the current Executive Director.
SECOND: Dr. Smith
ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Crevier, Chairman Hoffa, Dr. Kelly, PA Liechty, Dr. Smith, PA Spiegel, and PA Whitfield.
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

Chairman Hoffa offered Mr. Vest the opportunity to step aside and allow the Deputy Executive Director to conduct the Board's meeting. Mr. Vest respectfully declined.

Mr. Vest requested that the Board reopen this agenda item so that he may have the opportunity to address the Board's concerns. No further action was taken by the Board on this agenda item.

F. REVIEW, DISCUSSION, AND POSSIBLE ACTION REGARDING LEGAL REPRESENTATION FOR ARBOPA

The Board welcomed AAG Smith as the Legal Advisor for both the ARBoPA and the Arizona Medical Board, noting that AAG Tellier will continue to represent the ARBoPA as well. AAG Smith stated that she looks forward to working with the Board.

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

Mr. Vest presented his report to the Board and highlighted the following items:

- Employee Staffing
- FY 2015 Budget
- FY 2015-2019 Strategic Plan

The Board took no action on this agenda item.

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

No report was presented.

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

No report was presented.

J. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING ARBOPA POLICY AND LEGISLATIVE AGENDA

Chairman Hoffa presented this item to the Board.

- Legislative Update
- Board Processes
- Proposed Revisions to R4-17-202

PA Christopher Davis addressed the Board as a member of the Arizona State Association of Physician Assistants (ASAPA) regarding a proposed rule modification that would correspond to the recent change in the NCCPA six-year cycle. Specifically, A.A.C. R4-17-202 requires PA applicants to have passed the PANCE or PANRE within six years preceding the application. It was reported that the NCCPA changed its six-year cycle to a ten-year cycle. Therefore, it was proposed that the

regulation be revised to require current certification at the time of applying for licensure, to conform to the NCCPA change. PA Davis indicated that the current President of ASAPA was in agreement with the proposal. The Board considered draft language for the proposed amendment. Regarding that language:

MOTION: Chairman Hoffa moved to strike R4-17-202.B., and to modify R4-17-202.A. to read as follows: "An applicant for a regular license as a PA shall pass the PANCE or PANRE and be currently certified by the NCCPA at the time of applying for initial licensure."
SECOND: Dr. Kelly
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

K. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSAL FROM THE COMMITTEE OF DELEGATED AUTHORITY TO THE EXECUTIVE DIRECTOR

MOTION: PA Spiegel moved to table this matter.
SECOND: PA Whitfield
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

L. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING 2015 MEETING DATES

Board members discussed the proposed meeting dates for 2015. Chairman Hoffa proposed moving the Board's May 2015 meeting date to May 20th, and the August 2015 meeting date to September 2nd due to scheduling conflicts.

MOTION: Chairman Hoffa moved to change the ARBoPA's second quarter meeting to May 20, 2015, and the third quarter meeting date to September 2, 2015, and to approve the remaining 2015 meeting dates as otherwise proposed by staff.
SECOND: PA Whitfield
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

M. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING FY 2013-2014 ARBoPA ANNUAL REPORT

No Board action was taken regarding this agenda item.

N. REVIEW, DISCUSSION, AND POSSIBLE ACTION REGARDING REPORT ON ARIZONA STATE ASSOCIATION OF PHYSICIAN ASSISTANTS (ASAPA) SUNRISE APPLICATION TO PROVIDE STATUTORY AUTHORITY FOR PHYSICIAN ASSISTANTS TO UTILIZE FLUOROSCOPY IN THE STATE OF ARIZONA

PA Davis readdressed the Board, stating that the Medical Radiologic Technology Board of Examiners (MRTBE) and the Arizona Radiation Regulatory Agency (ARRA), in discussion with various hospital groups, clarified a rule that PAs could not utilize fluoroscopy even in the capacity of directing a radiological technician to perform a radioscopic image. PA Davis stated that this has created an issue for PAs that work in radiology in that they are no longer able to efficiently perform their healthcare tasks as previously. PA Davis indicated that ASAPA plans to submit a Sunrise Application to the current legislative session that would allow PAs to utilize fluoroscopy, with the additional education model and exam model provided by the American Registry of Radiologic Technologists (ARRT). The Board was provided a copy of the Sunrise Application, detailing the issue at hand, how other states have solved this issue, and the avenue whereby the PAs would undergo training and examination. It was requested that the Board endorse the Sunrise Application.

The Board was informed that every PA would be required to undergo the training and exam, and that there will be no grandfathering of currently licensed PAs. PA Davis clarified that the training would teach the radiation safety portion of performing fluoroscopy, ensuring that the ionizing radiation is utilized safely by PAs. PA Davis further reported to the Board that several organizations had been

sought out for support of the Sunrise Application, and that stakeholders have stated their support but have yet to submit any documentation to that affect.

MOTION: PA Spiegel moved for the ARBoPA to support the efforts of ASAPA in pursuing the Sunrise Application.
SECOND: PA Whitfield

Dr. Kelly expressed concern that there is no mechanism for continuing education or a plan of ongoing skill maintenance in this area. Dr. Kelly stated that he was concerned that ongoing changes in the technology may not be reflected in the training. Dr. Smith requested that the Board table this matter until such time that the stakeholders have submitted documentation supporting their position with regard to the Sunrise Application. Ms. Crevier added that she would like to see support from both the Allopathic and Osteopathic Medical Boards.

PA Spiegel and PA Whitfield withdrew the motion.

PA Davis informed the Board that September 1, 2014 is the deadline to submit the Sunrise Application, that stakeholders have been informed and sought out for support, but that their respective boards have not provided official documentation. Chairman Hoffa spoke in favor of supporting the Sunrise Application, and pointed out that the matter could return for further discussion by the Board if there is documentation opposing the application by a healthcare organization.

MOTION: Chairman Hoffa moved for the ARBoPA to approve and support the ASAPA's Sunrise Application to provide statutory authority for PAs to utilize fluoroscopy in the State of Arizona.
SECOND: PA Liechty
VOTE: 5-yay, 2-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

O. APPROVAL OF MINUTES

MOTION: Chairman Hoffa moved to approve the May 21, 2014 Regular Session Meeting Minutes.
SECOND: PA Spiegel
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

MOTION: Chairman Hoffa moved to approve the May 21, 2014 Regular Session Meeting Executive Session Minutes.
SECOND: Ms. Crevier
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

MOTION: Chairman Hoffa moved to approve the July 25, 2014 Special Teleconference Meeting Minutes.
SECOND: PA Whitfield
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

CONSENT AGENDA

P. CASES RECOMMENDED FOR DISMISSAL

MOTION: Chairman Hoffa moved to dismiss items 1, 2, and 3.
SECOND: PA Whitfield
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

1. PA-13-0077A, MARY JEAN PENNINGTON, P.A., LIC. #2931
RESOLUTION: Dismiss.

2. PA-14-0010A, JAMES G. MORPHIS, P.A., LIC. #3283
RESOLUTION: Dismiss.

3. PA-14-0049A, LINDA R. BOGGS, P.A., LIC. #5558
RESOLUTION: Dismiss.

Q. CASES RECOMMENDED FOR ADVISORY LETTERS

1. PA-13-0062A, ANGELA C. KISELYK, P.A., LIC. #3091

Attorney Scott King spoke during the call to the public on behalf of PA Kiselyk.

MOTION: Chairman Hoffa moved to issue an Advisory Letter for inadequate medical records. This matter does not rise to the level of discipline.
SECOND: PA Whitfield
Ms. Crevier proposed that the Board include in its motion that the PA failed to perform an abdominal examination. Ms. Crevier recognized that PA Kiselyk has indicated that she did conduct an exam, and stated that she is not convinced one was performed.

MOTION: Ms. Crevier moved for an amendment to the original motion to include in the Advisory Letter that it be issued for the PA's failure to perform an abdominal examination.
SECOND: Chairman Hoffa
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

AMENDED MOTION: Chairman Hoffa moved to issue an Advisory Letter for inadequate medical records and for failure to perform an abdominal examination. This matter does not rise to the level of discipline.
SECOND: PA Whitfield
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

R. PROPOSED CONSENT AGREEMENTS (Disciplinary)

1. PA-13-0052A, LINDA D. TEAGUE, P.A., LIC. #1883

Kathleen Muller, Physician Health Program, summarized that the Board's Physician Health Program (PHP) reported that the PA violated her December 22, 2009 Stipulated Rehabilitation Agreement (SRA). Ms. Muller added that on January 6, 2014, the PHP Contractor's final report indicated that the PA successfully completed treatment and is safe to practice while enrolled in the PHP for a period of five years. On January 23, 2014, PA Teague entered into the Board's PHP after signing an Interim Consent Agreement for PHP participation. Ms. Muller further reported that PA Teague is currently compliant with the Board's Program.

MOTION: Chairman Hoffa moved to accept the proposed Consent Agreement for a Letter of Reprimand and Five Year Probation to participate in the Board's Physician Health Program (PHP). PA Teague's PHP participation shall be retroactive to January 23, 2014.
SECOND: Dr. Smith
ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Crevier, Chairman Hoffa, Dr. Kelly, PA Liechty, Dr. Smith, PA Spiegel, and PA Whitfield. The following Board members were absent: Dr. Finch, Dr. McCalla, and Mr. Van Zanen.
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

S. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED INTERIM CONSENT AGREEMENT FOR PHYSICIAN HEALTH PROGRAM (PHP)

1. PA-14-0029A, AMY J. LENOX, P.A., LIC. #3597

Danielle Steger, PHP, summarized that this matter was presented to the Board for consideration to approve the PA having entered into an Interim Consent Agreement for PHP participation. Ms. Steger informed the Board that the matter is ongoing due to the professional conduct warranting further investigation. She added that once the investigation is complete, it will be considered by SIRC and return to the Board at a future date for final adjudication.

MOTION: PA Spiegel moved to approve the Interim Consent Agreement as signed by the PA on August 26, 2014 in case PA-14-0029A.
SECOND: Chairman Hoffa
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

T. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED INTERIM ORDER FOR PHYSICIAN ASSESSMENT AND CLINICAL EDUCATION (PACE) EVALUATION

1. PA-13-0049A, TRACY S. POSTON, P.A., LIC. #2503

Kathleen Coffer, M.D., Medical Consultant, summarized that in August of 2013, the Board received notification that there had been multiple patient and family complaints alleging rude interactions with the PA and that there had been instances of premature discharges as well as patients leaving without receiving treatment. The Board's Outside Medical Consultant (OMC) identified deviations from the standard of care with regard to the PA's care and treatment of four patients. The OMC found that three of the patients discharged prematurely without having been offered inpatient treatment for suicidal ideation. The OMC noted a discharge order in the fourth case that was canceled, and that the patient was ultimately admitted to the hospital for inpatient care. SIRC reviewed the matter and recommended that the PA complete a Physician Assessment and Clinical Education (PACE) evaluation prior to making a recommendation to the Board for final adjudication. It was noted that the PA's legal counsel requested postponement of the case for a future meeting where both the PA and her attorney could attend and address the Board.

MOTION: Chairman Hoffa moved to grant the continuance in this case.
SECOND: Dr. Smith
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

Ms. Crevier instructed Board staff to inform the PA that if she returns to Arizona to perform healthcare tasks, she must contact the Board of her intent to do so.

U. LICENSE APPLICATIONS

i. APPROVE OR DENY LICENSE APPLICATION

1. PA-14-0025A, HEATHER N. LEAZER, P.A., LIC. #N/A

PA Leazer addressed the Board during the call to the public. Dr. Coffer summarized that Dr. Leazer allowed her license to expire in October of 2013, but continued to practice until February of 2014. PA Leazer submitted her license application on February 25, 2014, and continued to practice while being aware that her license had expired. It was noted that the PA ceased practice at the time that she was notified of the Board's investigation.

Several patient charts were reviewed by an OMC who found that the PA met the standard of care in her treatment of the patients.

MOTION: PA Whitfield moved to approve the license application.
SECOND: Chairman Hoffa

Ms. Crevier spoke in favor of penalizing the PA for practicing without a license in addition to granting the license. Mr. Vest informed the Board that the matter could be referred for investigation into the PA's performance of healthcare tasks with an expired license. AAG Smith advised the Board to vote on the issue of whether to grant a license, and then instruct Board staff to further review the unprofessional conduct allegation.

PA Spiegel spoke in favor of the motion to grant the license. She noted that the Board previously set a precedent by issuing a non-disciplinary Advisory Letter for a PA that was found to have been practicing with an expired license.

VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

MOTION: Ms. Crevier moved to open an investigation into the PA having continued to practice with an expired license.
SECOND: PA Spiegel
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

2. PA-14-0063A, POONEH MUSSMAN, P.A., LIC. #N/A

Ms. Steger presented this matter to the Board for consideration of whether to grant or deny the license. Ms. Steger added that as an alternative, the Board may request that the PA complete a PHP assessment prior to considering the license application. It was noted that PA Mussman disclosed on the license application that she was arrested in April of 2012 for DUI and subsequently pled guilty to a misdemeanor. Ms. Steger reported that the PA went through all court mandated programs, and currently holds licenses in Michigan and California, neither of which has taken action against the PA.

MOTION: Chairman Hoffa moved to approve the PA's license.
SECOND: PA Whitfield

Dr. Kelly spoke against the motion and suggested that the PA be referred to PHP for an assessment. He noted that the California DUI misdemeanor is equivalent to a felony extreme DUI in Arizona. Dr. Kelly added that the magnitude of the charge should not be taken lightly by the ARBoPA. PA Spiegel noted that Michigan and California did not investigate the matter, and questioned whether the PA had any complaints filed against her in either state. Board staff reported that according to PA Mussman's public profiles for each state, there has been no action taken against her licenses.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Chairman Hoffa, PA Whitfield, and Dr. Smith. The following Board members voted against the motion: Ms. Crevier, Dr. Kelly, Dr. Smith, and PA Spiegel. The following Board members were absent: Dr. Finch, Dr. McCalla and Mr. Van Zanen.
VOTE: 3-yay, 4-nay, 0-abstain, 0-recuse, 3-absent.
MOTION FAILED.

MOTION: Dr. Kelly moved to require the applicant to undergo an assessment by the Board's PHP prior to considering whether to grant or deny the license.
SECOND: PA Spiegel

Chairman Hoffa commented that the incident seemed to be a one-time occurrence, and questioned whether there would be a time limit on the Board's ability to review the matter further. PA Spiegel stated that an assessment is appropriate to ensure the safety of the PA's ability to practice in Arizona.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Crevier, Chairman Hoffa, Dr. Kelly, PA Liechty, PA Spiegel, and PA Whitfield. The following Board member voted against the motion: Dr. Smith. The following Board members were absent: Dr. Finch, Dr. McCalla and Mr. Van Zanen.
VOTE: 6-yay, 1-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

ii. INITIAL APPLICATION - REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING OBTAINING ADDITIONAL INFORMATION

1. PA-14-0067A, DUSTIN T. MARLEY, P.A., LIC. #N/A

PA Marley addressed the Board during the call to the public. Rachel Shepherd, Investigator, presented this matter to the Board. She summarized that PA Marley disclosed on his license application that he was previously arrested in September of 2008 for DUI. It was noted that PA Marley pled guilty to the charge in February of 2009 and that he reported completion of all court ordered requirements in 2011. It was further noted that PA Marley was issued an Advisory Letter by the Arizona Board of Nursing.

MOTION: PA Spiegel moved to grant licensure to PA Marley.
SECOND: Dr. Smith
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

2. PA-14-0069A, THERESA D. KOPPAL, P.A., LIC. #N/A

Ms. R. Shepherd summarized that PA Koppal previously held an athletic training license, and was disciplined after allowing her license to lapse. It was noted that the PA does not currently hold an Arizona athletic training license.

MOTION: PA Spiegel moved to grant licensure to PA Koppal.
SECOND: PA Liechty
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

3. PA-14-0068A, BRIAN C. CLAYTON, P.A., LIC. #N/A

The Board observed that PA Clayton disclosed on his license application that he was previously terminated from a private physician employer. Board members questioned whether additional investigation is warranted, noting that the PA has not had any patient complaints reported. Dr. Kelly stated he did not believe that the PA's response to the question on the license application applied to the spirit of what the question asks. He spoke in favor of granting the license.

MOTION: Dr. Kelly moved to grant licensure to PA Clayton.
SECOND: Chairman Hoffa
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

OTHER BUSINESS

V. REQUEST FOR TERMINATION OF BOARD ORDER

1. PA-13-0053A, BRIAN W. STARK, P.A., LIC. #5123

Dr. Coffer summarized that PA Stark requested termination of his Board Order, and that he has completed the required CME. SIRC considered the PA's request and recommended that the Board Order be terminated.

MOTION: PA Whitfield moved to grant the request to terminate the Probation.
SECOND: Ms. Crevier
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

MOTION: Chairman Hoffa moved to adjourn the meeting.
SECOND: PA Spiegel
VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

The meeting adjourned at 5:11 p.m.

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Patricia E. McSorley
Interim Acting Executive Director