

### **Case Review Guidelines**

The Arizona Medical Board (“Board”) is charged by law to protect the public from unlawful, incompetent, unqualified, impaired or unprofessional practitioners of allopathic medicine. In order to fulfill this charge the Board must conduct a thorough, fair and impartial review. Thank you for agreeing to spend your valuable time on behalf of the Board to opine on whether the physician under investigation acted within the applicable standard of care.

### **Standard of Care**

The most important part of your review is identifying the standard of care. “Standard of Care” is the degree of care, skill and learning expected of a reasonable, prudent physician or specialist in Arizona in the same or similar circumstances. Once you have identified the standard of care, you must identify whether and how the physician deviated from that standard, and the resultant harm, potential harm, or death. Your analysis of harm should focus on physical, not economic harm. For instance, it is not actionable harm to a patient if the physician’s actions resulted in increased health insurance premiums or missed work.

You are encouraged but not required to consider published guidelines, if applicable and appropriate, in your development of the standard of care. If you do use published guidelines, please include them in your report.

### **Conflict of Interest/Appearance of Impropriety or Bias**

Before reviewing a case you must determine whether there is a conflict of interest that prohibits your involvement. By law, you have a conflict of interest if you have a “substantial interest” in the decision of the Board. You have a substantial interest if the decision of the Board will either positively or negatively affect a financial interest of yours or a relative. For instance, you are asked to opine on care rendered by a physician who is a partner or member of your practice. You would have a conflict of interest because a Board action could cause the physician’s malpractice rates to increase and impose an additional expense on the practice. Beyond the conflict of interest laws you must also decide if your review of the case would create an appearance of impropriety or bias. For instance, you are asked to opine on the care rendered by a physician with whom you maintain a close friendship. Your opinion would be called into question because of your relationship with the physician. You are not precluded from opining on a case involving a physician with whom you are casually acquainted. You may not review a case involving a physician with whom you have or have had a negative relationship or if you have previously participated in a peer review or other review involving the same physician.

### **Materials to Consider**

In analyzing the case you may not consider any information (other than journals and other literature) outside the records and material provided to you by the Board. For instance, you recall hearing that the physician under investigation for a bad surgical outcome once botched a surgery. You may not consider this information in reviewing the case for the Board. If you use a journal or other literature in your analysis, please identify and, if possible, include a copy of the information when you return your report to the Board. Please do not rely solely on peer review materials that may be contained in the records. While you may review the findings of a peer review proceeding, the Board's investigation must be independent of the conclusions drawn in a peer review proceeding. Also, peer review materials are confidential and may not be discussed in an open Board meeting. Therefore, when stating your conclusions please refer only to the patient records or other supporting information.

### **Confidentiality**

All of the material provided to you is confidential by law. You may not share this information with any other individuals and you must take care to secure the materials while they are in your possession. If you need to consult with another physician to assist in your analysis, please only provide information in the form of a hypothetical situation or ask your question in such a way that does not reveal confidential information. Page 2

Additionally, the physician who is the subject of the investigation has an equal obligation to keep the investigative materials confidential. In the event that deviations are found regarding the standard of care, the physician has a due process right to review the entire investigative file and respond to the findings.

***If deviations are found regarding the Standard of Care, the physician will be provided with a copy of your report that reveals your identity and given the opportunity to respond to the findings. The physician is obligated by law to keep the complete investigative record confidential and not share any part of it, including your report, to coworkers, employers, malpractice insurance carriers, colleagues, or any other party. The documents are provided only to give the physician an opportunity to prepare for Board meetings.***

The Arizona Medical Board depends on your thoughtful evaluations and takes your privacy seriously. In the event that a physician is found to have unlawfully disclosed your report to another person or entity, other than the physician's attorney, the Board reserves the right to open an investigation and take action against that physician.

### **Your Medical Consultant Report**

The Board requests that all Outside Medical Consultant reports follow a standard format. The report should be based on objective findings only. Editorial comments should not be included. The Report Template and Report Instructions are in Word format

Board staff will contact you within one week to ensure you are able to access the records and to respond to any questions you may have. We would appreciate receiving your report within three weeks.

While the Board is unable to fully compensate you for the time expended in this endeavor, it is able to offer you \$150.00 for your review of each case. You may also claim CME credit for the time spent reviewing the case and writing your report.

If the matter proceeds for a Formal Hearing, you may be called to testify. Please note, less than 1% of all cases proceed to formal hearing, and the chance of you being called to testify is minimal. However, should that circumstance occur, you will be compensated \$300/hour for the preparation of your testimony and \$400/hour for your actual testimony.

The Arizona Medical Board thanks you for your support and evaluation of the above-referenced matter.