



Arizona Regulatory Board of Physician Assistants

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258-5514
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FINAL MINUTES FOR REGULAR SESSION MEETING Held on Wednesday, May 24, 2017 9535 E. Doubletree Ranch Road • Scottsdale, Arizona 85258

Board Members

Myles A. Whitfield, P.A.-C, Chair
Randy D. Danielsen, PhD, P.A., D.F.A.A.P.A. Vice Chair
Carole A. Crevier
Geoffrey W. Hoffa, D.H.S.c., P.A.-C, D.F.A.A.P.A.
Thomas E. Kelly, M.D., F.A.C.E.P.
Sheldon G. Liechty, P.A.-C
Gary A. Smith, M.D., F.A.A.F.P.
Jacqueline J. Spiegel, M.S., P.A.-C, D.F.A.A.P.A.
Patrick J. Van Zanen

Wednesday, May 24, 2017

GENERAL BUSINESS

A. CALL TO ORDER

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

B. ROLL CALL

The following Board members were present: Chairman Whitfield, Dr. Danielsen, Ms. Crevier, PA Hoffa, Dr. Kelly, PA Liechty and PA Spiegel.

The following Board members were absent: Dr. Smith and Mr. Van Zanen.

ALSO PRESENT

Carrie Smith, AAG; Patricia E. McSorley, Executive Director; Kristina Fredericksen, Deputy Director; William Wolf, M.D., Chief Medical Consultant; Raquel Rivera, Investigations Manager; Mary Bober, Board Operations Manager; Andrea Cisneros, Staff Investigational Review Committee ("SIRC") Coordinator; and Michelle Robles, Board Coordinator

C. CALL TO THE PUBLIC

Individuals who addressed the Board during the Public Statements portion of the meeting appear beneath the matter(s) referenced.

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

- Update on Agency relocation to 1740 W. Adams St.
Ms. McSorley reported that the building renovations are due to start this week and the agency move date is scheduled for December or January.
- Consideration of request to incorporate Substantive Policy Statement #4 into Statute or Rule
Ms. McSorley requested guidance from the Board on moving forward with making the Substantive Policy Statement #4 (SPS) regarding the Executive Director's ability to grant

license be made into statute. Ms. McSorley noted that a legislative committee would assist with rule making, statutes and legislation. Dr. Hoffa recommended that the topic of legislative policy be an ongoing topic on the agenda. Chairman Whitfield noted that the Board will be collaborating with ASAPA on legislative issues going forward.

- Update on upcoming Sunset Review and performance audit by Auditor General's Office
Ms. McSorley stated that the Auditor General's Office will initiate the sunset review of the PA Board once they complete the Arizona Medical Board's audit.
- Update on Governor's Office Regulation Rollback Submissions
Ms. McSorley provided information on the Regulation Rollback submissions relayed by the Governor's Office, and the Board's responses to those submissions.
- Brief Legislative Update
Ms. McSorley reported that Board staff will be working on implementing two pieces of legislation. One issue is to implement a process to waive fees for applicants who are within 200 percent of the poverty level. The Board will also be determining how to address legislation requiring the Board to waive licensing requirements for applicants with equivalent military training.

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

- Collaboration with Arizona State Association of Physician Assistants' (ASAPA)
Chairman Whitfield opined that the Board supports ASAPA in their goal to grow their membership.
- Board Member Terms and Appointments
Chairman Whitfield reported that the Board is awaiting new appointments through the Governor's office.
- Full Practice Authority/Optimal Team Performance
Chairman Whitfield requested that all board members become familiar with these terms. PA Spiegel stated she will provide the OTP language once it is released from the American Academy of Physician Assistants (AAPA).
- Agenda Rules
Chairman Whitfield reported that the agenda closes at noon on the Friday prior to the meeting, however; any emergent issues will be added if needed.

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

No legal advisors report was provided.

G. THIS ITEM HAS BEEN REMOVED FROM THE AGENDA.

H. REVIEW, DISCUSSION, AND POSSIBLE ACTION REGARDING THE ARIZONA STATE ASSOCIATION OF PHYSICIAN ASSISTANTS' (ASAPA) REQUEST FOR EMAIL LIST OF ARIZONA LICENSED PHYSICIAN ASSISTANTS

Ms. McSorley reported that ASAPA has requested the Board to provide an email list so that they may contact physician assistants with the purpose to grow and improve the physician assistant practice.

Mr. Keenan, MMS PA-C President Elect ASAPA, stated that ASAPA would like to support the Board's efforts to ensure safe PA practice. The email list will only be used for membership

development and will be conducted directly through ASAPA not through a third party. Mr. Keenan requested that the list be provided quarterly.

Ms. Smith clarified that the decision before the Board is to determine whether the Board can grant the request in compliance with public records law.

MOTION: Hoffa moved to grant ASAPA's request for an email listing of Arizona licensed PAs.

SECOND: Dr. Kelly.

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

MOTION PASSED.

I. UPDATE ON PUBLIC COMMENTS REGARDING REVIEW AND REDUCTION OF UNNECESSARY REGULATION OF ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS RULES

- Statement of Gerry Keenan, MMS PA-C President Elect Arizona State Association of Physician Assistants on Behalf of members and the profession.

Dr. Danielsen reported that as a result of Governor Ducey's Executive Order directing state agencies to conduct a review of regulatory framework the Board held two public comment sections. The goal is to determine any regulatory constructs that were overly burdensome, contradictory or redundant. The findings are due in August.

The public comment section resulted in a public response on four basic issues. The first issue is in regards to the requirement of having supervising physicians' names on all prescriptions, the second issue is regarding the lack of equivalence with nurse practitioners when it comes to prescribing, the third issue is regarding the requirement for a written order from a physician for a PA to write a prescription for a drug refills and lastly a request to remove the requirement for a delegation agreement for a locum tenens.

Board members agreed there should be a subcommittee to discuss issues regarding the Board's legislative issues or initiatives.

Chairman Whitfield appointed Dr. Danielsen as chair, PA Spiegel and PA Liechty to the Joint Legislative Rules Committee (JLRC) and requested that they provide a report at the next regular session meeting.

J. BOARD MEMBER RECOGNITION

Chairman Whitfield acknowledged Dr. Hoffa's service and mentorship over the past eight years with the Board.

K. APPROVAL OF MINUTES

MOTION: Dr. Hoffa moved to approve the February 22, 2017 Regular Session, Including Executive Session.

SECOND: Ms. Crevier.

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

MOTION PASSED.

LEGAL MATTERS

L. REVIEW, CONSIDERATION AND POSSIBLE ACTION ON PROPOSED BOARD ORDER ARISING FROM ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION

1. PA-15-0102A, NORA D. ELLIS, P.A., LIC. #3675

AAG Froedge reported that this case went to a Formal Hearing at the Office of Administrative Hearings for which Ms. Ellis did not appear. Ms. Froedge reported that the State is requesting that the Board adopt the Findings of Fact, Conclusions of Law and the recommended decision of the Administrative Law Judge for revocation of license, with a few typographical corrections in Findings of Fact 4, 6, 15, 18 and 29.

PA Ellis stated that she was in a difficult situation at her place of employment and had no complaints until her last day at the clinic, and that this complaint is unfounded.

AAG Froedge explained that the issue in this case is based on PA Ellis' behavior at her place of employment and the complaint was very serious in nature. PA Ellis was instructed to take an evaluation by the Board's PHP evaluators however; she did not participate in the evaluation. AAG Froedge stated that the Findings of Fact were based on the available evidence at the time of the hearing.

MOTION: PA Whitfield moved to adopt the ALJ's recommended Findings of Fact as modified by counsel.

SECOND: Dr. Danielsen.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: PA Whitfield, Dr. Danielsen, Ms. Crevier, Dr. Hoffa, Dr. Kelly, PA Liechty and PA Spiegel. The following Board members were absent: Dr. Smith and Mr. Van Zanen.

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

MOTION PASSED.

MOTION: Dr. Hoffa moved to adopt the ALJ's recommended Conclusions of Law.

SECOND: Ms. Crevier.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: PA Whitfield, Dr. Danielsen, Ms. Crevier, Dr. Hoffa, Dr. Kelly, PA Liechty and PA Spiegel. The following Board members were absent: Dr. Smith and Mr. Van Zanen.

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

MOTION PASSED.

MOTION: Dr. Danielsen moved to approve the Board Order arising from the ALJ's recommended decision to revoke PA Ellis' Arizona license.

SECOND: Ms. Crevier.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: PA Whitfield, Dr. Danielsen, Ms. Crevier, Dr. Hoffa, Dr. Kelly, PA Liechty and PA Spiegel. The following Board members were absent: Dr. Smith and Mr. Van Zanen.

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

MOTION PASSED.

MOTION: PA Whitfield moved to adopt the ALJ's recommended Order as its final Order in this case.

SECOND: Dr. Hoffa.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: PA Whitfield, Dr. Danielsen, Ms. Crevier, Dr. Hoffa, Dr. Kelly, PA Liechty and PA Spiegel. The following Board members were absent: Dr. Smith and Mr. Van Zanen.

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

MOTION PASSED.

M. RESCIND REFERRAL TO FORMAL HEARING AND ACCEPT PROPOSED CONSENT AGREEMENT

1. PA-16-0038A, JAMES G. MORPHIS, P.A., LIC. #3283

AAG Smith addressed the Board on behalf of the State. This case was opened by the Board in June 2016 with a notification of the licensee being arrested for felony charges. The respondent subsequently signed an Interim Consent Agreement for Practice Restriction. This matter was then referred to formal hearing. On April 19, 2017 the respondent signed a Consent Agreement for voluntary surrender of his license. AAG Smith stated that the State requests that the Board rescind the referral to formal hearing and accept the signed consent agreement for surrender.

MOTION: Dr. Hoffa moved to rescind the referral to Formal Hearing.

SECOND: PA Spiegel.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: PA Whitfield, Dr. Danielsen, Ms. Crevier, Dr. Hoffa, Dr. Kelly, PA Liechty and PA Spiegel. The following Board members were absent: Dr. Smith and Mr. Van Zanen.

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

MOTION PASSED.

MOTION: Dr. Hoffa moved to accept the proposed Consent Agreement for surrender of licensure.

SECOND: Dr. Danielsen.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: PA Whitfield, Dr. Danielsen, Ms. Crevier, Dr. Hoffa, Dr. Kelly, PA Liechty and PA Spiegel. The following Board members were absent: Dr. Smith and Mr. Van Zanen.

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

MOTION PASSED.

N. FORMAL INTERVIEWS

1. PA-16-0020A, CHARLES H. RYAN, P.A., LIC. #2699

PA Ryan was present with counsel James Kaucher. K.R. addressed the Board during the Public Statements portion of the meeting on behalf of the physician assistant.

Board staff summarized that on April 7, 2017 the Board initiated the case after review of a related matter, alleging inappropriate prescribing by PA Ryan to patient KR. The Medical Consultant ("MC") opined that the documentation and clinical assessment are not consistent with recognized standards of care for a PA acting in non-exigent/non-emergent clinical circumstances. The MC stated that PA Ryan was acting in an unsupervised capacity as if he were an independent practitioner. This case was brought before the Board during the February 22, 2017 meeting with a recommendation of an Advisory Letter and CME. The Board voted to return the case for a Letter of Reprimand and Probation for completion of CME in ethics. PA Ryan elected to appear for a formal interview.

PA Ryan asserted that there were several errors in the MC's report regarding the July 12 prescription. PA Ryan opined that he met the statutes requirement regarding adequate medical records. PA Ryan explained that at the time he did not believe he was practicing without physician supervision and that he discussed his treatment and care of KR with his supervising physician.

Mr. Kaucher stated that the major issue in this case is the allegation of practicing outside the scope of the delegation agreement with PA Ryan's supervising physicians. Mr. Kaucher noted there is nothing in the delegation agreement that states he must practice within his practicing facility and there was no patient harm. Mr. Kaucher opined that this case does not rise to the level of discipline.

During questioning, PA Ryan explained that his medical records were hand written and kept in a safe in his home. When Board staff requested his records he typed them and destroyed the originals. PA Ryan clarified who his supervising physicians were during the time of his treatment of KR. PA Ryan explained his history with recognizing drug seeking behavior by working in the ER and county jail and stated that he did ask KR drug risk questions but failed to document them. PA Ryan clarified that KR's husband was present for all visits and that he trusted KR and her husband due to their history and friendship.

In closing, PA Ryan explained that there were incorrect facts in the MC's report and requested that the Board take into account that he has had no history with the Board and that he meant no patient harm in this case.

Mr. Kaucher stated that PA Ryan has learned from this case and requested that the Board not take disciplinary action.

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

SECOND: Dr. Hoffa.

Dr. Hoffa commented that any form of medical records should never be destroyed but opined that there was no patient harm in this case, rather a lapse in judgment that resulted in a PA performing healthcare tasks without proper supervision.

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

MOTION PASSED.

MOTION: Dr. Hoffa moved to issue an Advisory Letter for inadequate medical records, destruction of medical records, and for performing health care tasks not delegated by his supervising physician. While the licensee has demonstrated substantial compliance through 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 Spiegel.

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

MOTION PASSED.

CONSENT AGENDA

O. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Dr. Hoffa moved to issue an Advisory Letter in items O2 and O3.

SECOND: PA Spiegel.

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

MOTION PASSED.

1. PA-16-0084A, CHRISTINE C. LAGROW, P.A., LIC. #3723

Board staff summarized that the case was initiated after receiving a complaint regarding PA LaGrow's care and treatment of a 52 year-old female patient KS alleging failure to properly treat, ordering of unnecessary testing, and failure to provide test results. The MC found that PA LaGrow provided good care to the patient when she presented with foot pain, an elevated blood pressure, and a history of medication noncompliance. The MC opined that the PA ordered testing (ABI) that was not necessary, and that there was a HIPAA violation that occurred in the office.

MOTION: Dr. Hoffa moved to dismiss.

SECOND: PA Liechty.

Dr. Hoffa opined that there was not a compelling case made by the MC that the ABI testing was unnecessary and opined that this case did not warrant an Advisory Letter. PA Spiegel commented that medical providers have an obligation to treat the whole patient.

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

MOTION PASSED.

2. PA-16-0046A, MICHELLE L. ROY, P.A., LIC. #2364

RESOLUTION: Issue an Advisory Letter for performing health care tasks without having an unrestricted supervising physician, and for failing to include her current supervising physician's information on prescriptions. There is insufficient evidence to support disciplinary action.

3. PA-17-0007A, KAREN L. RAFFENSPERGER, P.A., LIC. #3409

RESOLUTION: Issue an Advisory Letter for prescribing controlled substances to a member of her immediate family and for failing to maintain medical records. While the licensee has demonstrated substantial compliance through 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.

P. LICENSE APPLICATIONS

i. APPROVE OR DENY LICENSE APPLICATION

1. PA-17-0016A, JASON L. HAUGEN, P.A., LIC. #N/A

PA Jason Haugen addressed the Board during the Public Statements portion of the meeting.

Board staff summarized that the Board initiated the case after receiving PA Haugen's license application in May 2016, wherein he disclosed a previous restriction of his clinical privileges. PA Haugen was investigated by the Air Force and they determined that he failed to properly document patient visits within the medical record and engaged in on-call services after normal business hours to select female patients while he was not the designated on-call provider. The investigation led to a summary suspension of his clinical privileges in December 2014 and a permanent restriction preventing PA Haugen from providing care to female patients until he separated from the Air Force in October 2015.

MOTION: Ms. Crevier moved to deny the license based on A.R.S. § 32-2521(A)(4).

SECOND: PA Liechty.

PA Spiegel opined that although the behaviors and allegations are concerning however; she would recommend a probationary license. Dr. Hoffa commented that by denying licensure then the PA would have way to demonstrate improvement or rehabilitation. PA Liechty noted that even on a restricted license the PA would be able to show improvement.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Crevier. The following Board members voted against the motion: PA Whitfield, Dr. Danielsen, Dr. Hoffa, Dr. Kelly, PA Liechty and PA Spiegel. The following Board members were absent: Dr. Smith and Mr. Van Zanen.

VOTE: 1-yay, 6-nay, 0-abstain, 0-recuse, 2-absent.

MOTION FAILED.

MOTION: PA Spiegel moved to offer a Consent Agreement for a two year probationary license. Within six months, the PA shall complete a psychosexual evaluation at a facility approved by the Board or its staff. The PA shall comply with any and all treatment or practice recommendations made by the evaluating facility. In the event that the facility determines the PA is unsafe to practice, the matter shall return to the Board for its immediate review. The PA shall have a Board-approved licensed female healthcare provider or female allied health care provider to serve in the capacity of a chaperone when seeing/treating all female patients. The PA shall be subject to periodic chart reviews, at his expense, to monitor the PA's compliance with the Board Order. In the event that the evaluating facility determines that the PA is safe to practice without a chaperone, he may petition the Board to request that the Probation be terminated and an unrestricted license be granted.

SECOND: Dr. Hoffa.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: PA Whitfield, Dr. Hoffa, PA Liechty and PA Spiegel. The following Board members voted against the motion: Dr. Danielsen, Ms. Crevier and Dr. Kelly. The following Board members were absent: Dr. Smith and Mr. Van Zanen.

VOTE: 4-yay, 3-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

ii. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING LICENSE APPLICATION AND CONSIDERATION OF RECOMMENDED ADVISORY LETTER

1. PA-17-0027A, BRUCE A. ROPTE, P.A., LIC. #N/A

PA Ropte addressed the Board during the Public Statements portion of the meeting.

Board staff summarized that PA Ropte allowed his license to expire and did not realize that he needed a state license to practice on Federal land. PA Ropte's license was expired for two weeks where he worked four shifts and treated about 100 patients.

MOTION: Dr. Danielsen moved to grant the license.

SECOND: Dr. Kelly.

Dr. Hoffa opined that this may have been a one-time mistake and does not warrant an advisory letter.

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

MOTION PASSED.

2. PA-17-0037A, LINDA A. SILVA, P.A., LIC. #N/A

PA Silva addressed the Board during the Public Statements portion of the meeting.

Board staff summarized that PA Silva stated she believed she renewed her license at the same time that she renewed her NCPPA certification. PA Silva worked four shifts and treated about 45 patients during the time her license had lapsed. PA Silva currently has a malpractice settlement under review by the Board.

MOTION: Dr. Hoffa moved to grant the license.

SECOND: Dr. Danielsen.

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

MOTION PASSED.

MOTION: Dr. Hoffa moved to adjourn the meeting.

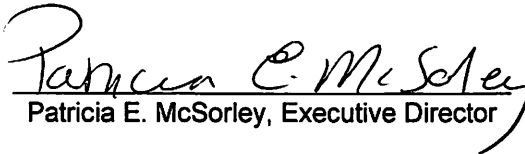
SECOND: PA Liechty.

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

MOTION PASSED.

The meeting adjourned at 4:12 p.m.




Patricia E. McSorley, Executive Director