



Arizona Regulatory Board of Physician Assistants

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Janice K. Brewer
Governor

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Chair

Kristin A. Neal, M.P.H., P.A.-C
Vice Chair

DRAFT MINUTES FOR REGULAR SESSION MEETING Held on Wednesday, May 25, 2011 9535 E. Doubletree Ranch Road • Scottsdale, Arizona 85258

Board Members

- Joan M. Reynolds, M.M.S., P.A.-C, Chair
- Kristin A. Neal, M.P.H., P.A.-C, Vice-Chair
- Carole A. Crevier
- Michael E. Goodwin, P.A.
- Geoffrey W. Hoffa, M.S., P.A.-C
- Lesley A. Meng, M.D.
- Gary A. Smith, M.D., F.A.A.F.P.
- Patrick J. Van Zanen
- Peter C. Wagner, D.O.
- Kelli M. Ward, D.O., M.P.H., F.A.C.O.F.P.

CALL TO ORDER

PA Neal called the meeting to order at 1:00 p.m.

ROLL CALL

The following Board members were present: Ms. Crevier, PA Goodwin, PA Hoffa, Dr. Meng, PA Neal, Dr. Smith, Mr. Van Zanen, and Dr. Ward. The following Board members were absent: PA Reynolds and Dr. Wagner.

CALL TO THE PUBLIC

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

EXECUTIVE DIRECTOR'S REPORT/PA RULES UPDATE

Lisa Wynn, Executive Director, reported that the Board has been granted an exception to the Rulemaking moratorium by the Governor's Regulatory Review Council. Ms. Wynn informed the Board that the Agency is in the preliminary process of working with a rule-writer to update the PA Rules in order to comply with new legislation regarding the delegation authority of supervising physicians and their PAs, as well as the new law regarding the PA prescribing authority increase for scheduled II and III medication from 14 days to 30 days. Ms. Wynn further stated that she anticipates that the Board's PA Rules Subcommittee will meet by August 2011 with a subsequent stakeholders meeting to obtain input from the public.

LEGAL ADVISOR'S REPORT

Jennifer Boucek, Assistant Attorney General, reported that one Physician Assistant (PA) has been referred to the Office of Administrative Hearings for a Formal Hearing. She stated that the Hearing is scheduled for June 13-14 and the final day of the Hearing is scheduled in July; therefore, the Board most likely will not receive the Administrative Law Judge's recommended decision in time for the August meeting.

APPROVAL OF MINUTES

MOTION: PA Hoffa moved to approve the February 23, 2011 Regular Session Meeting, including Executive Session.

SECONDED: Ms. Crevier

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

MOTION PASSED.

ADVISORY LETTERS

NO.	CASE NO.	PHYSICIAN ASSISTANT	LIC. #	RESOLUTION
1.	PA-10-0076A	JENNIFER L. MASCHE, P.A.	2952	Issue an Advisory Letter for prescribing controlled substances to a patient prior to establishing a provider-patient relationship and for failing to maintain a medical record. This matter does not rise to the level of discipline.

Dr. Ward stated that she knows PA Masche, but that it would not affect her ability to adjudicate the case. Kathleen Coffey, M.D., Medical Consultant, summarized that PA Masche prescribed controlled substances to another PA without proper documentation and performed the role of a primary care provider without first establishing a provider-patient relationship.

MOTION: PA Goodwin moved to issue an Advisory Letter for prescribing controlled substances to a patient prior to establishing a provider-patient relationship and for failing to maintain a medical record. This matter does not rise to the level of discipline.

SECONDED: Dr. Smith

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN ASSISTANT	LIC. #	RESOLUTION
2.	PA-10-0079A	ELIZABETH A. PENFOLD, P.A.	3730	Dismiss.

Elle Steger, Investigator, summarized that this case stemmed from a complaint filed by a pharmacist regarding PA Penfold's prescription pads. Board staff found that the prescription pad failed to contain the name of her supervising physician as required by statute. Ms. Steger stated that when PA Penfold became aware of the issue, she immediately corrected the problem and reported to the Board that she destroyed the prescription pad in question. Ms. Steger explained that the matter was subsequently dismissed by the Executive Director and the pharmacist filed a request for review of the dismissal with additional information indicating that the PA had recently written another prescription from the prescription pad that did not contain her supervising physician's name. Board staff reconsidered the matter and determined that the PA engaged in unprofessional conduct.

MOTION: Ms. Crevier moved to issue an Advisory Letter for failing to contain the name of her supervising physician, as required by statute, on her prescription pad. This matter does not rise to the level of discipline.

SECONDED: Dr. Smith

PA Hoffa questioned when the recent prescription was written. Ms. Steger clarified that the prescription was written after the matter had been dismissed. Dr. Ward noted that the additional information provided by the pharmacist indicated that she had corrected the problem as subsequent prescriptions issued by the PA did contain her supervising physician's name. Dr. Ward spoke against the motion. She stated that this may be a recognized issue by pharmacists and that the Board may need to address this matter in another fashion.

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

MOTION FAILED.

MOTION: PA Goodwin moved for dismissal.

SECONDED: Dr. Ward

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

MOTION PASSED.

REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

NO.	CASE NO.	PHYSICIAN ASSISTANT	LIC. #	RESOLUTION
1.	PA-10-0056A	NORA D. ELLIS, P.A.	3675	Uphold the Dismissal.

JP spoke during the call to the public on behalf of the complainant party. PA Ellis also addressed the Board during the call to the public.

MOTION: Ms. Crevier moved to uphold the dismissal.

SECONDED: PA Goodwin

Dr. Ward stated that it is outside the scope of practice for a PA to order prescription pads to write for the PA's personal use without their supervising physician's authority or approval. Dr. Ward spoke against the motion and stated that dismissing the case would be a disservice to the public and could potentially cause harm. Marlene Young, Investigator, summarized that PA Ellis was terminated by her employer after it was determined that she ordered prescription pads without authorization from her supervising physician. Ms. Young stated that PA Ellis' former employer had pointed out that her duties did not require her to have a prescription pad in order to conduct the healthcare tasks delegated to her by the supervising physician. Ms. Young informed the Board that the PA and her supervising physician did have a Notice of Supervision on file with the Board, in which her supervising physician authorized the PA to prescribe. PA Goodwin stated that there is no evidence that PA Ellis issued an order for medication on the prescription pads. Dr. Ward questioned whether it is common practice for a PA to order prescription pads with their personal cellphone number listed instead of their practice number. PA Hoffa spoke in favor of dismissal, and stated that it is important for the PA to know that the supervising physician's name is required to be on the prescription.

Dr. Ward questioned whether Board staff had obtained the February 2011 prescription that PA Ellis' employer had reported to the Board. Pat McSorley, Investigations Manager, informed the Board that there is another investigation that is currently pending. Dr. Ward recommended that this matter be tabled and asked if the cases could be returned together in order for the Board to consider both matters. Ms. Boucek stated that the PA Practice Act does not address a licensee's attempt to commit the offense at issue in this case as opposed to actually committing the offense. She reiterated that the matter is being addressed under a separate investigation. Ms. Boucek advised that the Board should consider whether a violation has been committed prior to considering whether the licensee has prior Board history, in an effort to adjudicate each case on its own merits. Ms. Boucek further stated that the Board will not have prejudiced the decision in the separate matter by the action taken in the current case. PA Hoffa stated that

he felt this matter in and of itself does not rise to the level of Board action. Dr. Ward asked whether PA Ellis had written a prescription using this prescription pad and Board staff confirmed that a prescription had been written, but that the matter was being investigated under the new investigation. Ms. McSorley clarified that there has been no determination made in the pending case regarding PA Ellis. She stated that the issue had been brought to the Board's attention after this investigation was completed.

**VOTE: 6-yay, 2-nay, 0-abstain, 0-recuse, 2-absent.
MOTION PASSED.**

Ms. Crevier questioned whether the supervising physician should be referred to the Arizona Medical Board for review regarding whether he was actively practicing while supervising PA Ellis, and to determine whether he had been practicing without malpractice insurance. Dr. Ward pointed out that physicians are not required to maintain malpractice insurance. PA Neal instructed Board staff to look into the matter further regarding whether the supervising physician was in active practice while supervising the PA.

NO.	CASE NO.	PHYSICIAN ASSISTANT	LIC. #	RESOLUTION
2.	PA-10-0082A	MARCEL P. GARR, P.A.	4373	Uphold the Dismissal.

Anita Shepherd, Investigations Assistant Manager, summarized that a medical consultant reviewed the matter and determined that there was no deviation from the standard of care. The matter was dismissed by the Executive Director and the complainant filed a request for review of the dismissal. After further review, Board staff determined that there was insufficient evidence to sustain a violation.

**MOTION: Dr. Ward moved to uphold the dismissal.
SECONDED: Mr. Van Zanen**

Dr. Ward recognized that the provider and his chaperone both testified that the exam was performed appropriately. Dr. Ward spoke in favor of upholding the dismissal and noted that there is a process in place within the medical community to ensure the safety of the patient as well as the provider, which is to have a chaperone present during sensitive examinations.

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

OTHER BUSINESS

NO.	CASE NO.	PHYSICIAN ASSISTANT	LIC. #	RESOLUTION
1.	PA-09-0050A	BILLIE JO WOUNDED FACE, P.A.	2676	Accept the Proposed Consent Agreement for Surrender of License.

MOTION: PA Goodwin moved to accept the proposed Consent Agreement for Surrender of License.

SECONDED: Ms. Crevier

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Crevier, PA Goodwin, PA Hoffa, Dr. Meng, PA Neal, Dr. Smith, Mr. Van Zanen, and Dr. Ward. The following Board members were absent: PA Reynolds and Dr. Wagner.

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

MOTION: PA Hoffa moved to adjourn the meeting.

SECONDED: PA Goodwin

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

The meeting adjourned at 1:41 p.m.



Lisa S. Wynn, Executive Director