Arizona Regulatory Board of Physician Assistants
9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258-5514
Telephone: 480-551-2700 • Fax: 480-551-2704 • www.azpaboard.org

Janet Napolitano
Governor
Albert Ray Tuttle, P.A.-C.
Chair
Timothy C. Miller, J.D.
Executive Director

FINAL MINUTES FOR REGULAR SESSION MEETING
Held at 1:00 p.m. on May 18, 2005
9535 E. Doubletree Ranch Road · Scottsdale, Arizona

Board Members
Albert Ray Tuttle, P.A.-C, Chair
Joan M. Reynolds, P.A.-C, Vice Chair
Randy D. Danielsen, Ph.D., P.A.-C
Michael E. Goodwin, P.A.-C
G. Bradley Klock, D.O.
James Edward Meyer, M.D.
Sigmund Popko, J.D., Public Member
Anna Marie Prassa, Public Member
Peter C. Wagner, D.O.
Barry D. Weiss, M.D., FAAFP

WEDNESDAY, MAY 18, 2005

CALL TO ORDER
Albert Ray Tuttle, P.A.-C, Chair, called the meeting to order at 1:00 p.m.

ROLL CALL
The following Board members were present: Albert Ray Tuttle, P.A.-C., Chair, Joan M. Reynolds, P.A.-C., Vice Chair, Randy D. Danielson, Ph.D., P.A.-C., G. Bradley Klock, D.O., James Meyer, M.D., Anna Marie Prassa, Peter C. Wagner, D.O., Sigmund Popko, J.D. and Barry D. Weiss, M.D. FAAFP. The following Board members were absent: James Meyer, M.D. and Michael E. Goodwin, P.A.-C.

On behalf of the Board of Physicians Assistants, P.A. Tuttle extended congratulations to Tim Miller, Executive Director of the Arizona Medical Board, on the birth of his daughter. P. A. Tuttle also introduced the new Chief Medical Consultant, Mark Nanney, M.D., J.D.

CALL TO THE PUBLIC
Statements issued during the call to the public appear beneath the case referenced.

FORMAL INTERVIEWS

NO.	INTERVIEW	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	PRESENTING BOARD MEMBER
3.	1:15 p.m.	PA-03-0025A	S.G.	SANDRA L. MCCARTHY, P.A.-C	2116	Draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand

Dr. Ryk Linden spoke at the Call to the Public regarding P.A. Sandy McCarthy. Dr. Linden has served as her supervising physician for the past five years and provided a letter of support for the Board's review. Dr. Linden stated that he has worked very closely with P.A. McCarthy and can speak first-hand about her professional ethics. It is Dr. Linden's opinion that P.A. McCarthy is a decent person and would own up to anything she would do as a P.A. She has been accused, and has admitted to taking, samples of a non-narcotic prescription drug. She admits to this being wrong and that the intended purpose was only for her husband's personal use. Dr. Linden stated that the incident was brought to the Board a year and a half after it actually happened, and only then after a lawsuit had been filed against P.A. McCarthy's husband, Troy. Dr. Linden noted that in P.A. McCarthy's initial response to the Board she misled the Board and, according to Dr. Linden, was responding "as a wife protecting her husband". Dr. Linden did not believe that this was a clear representation of P.A. McCarthy and believes that the recommendation of a six-month suspension is too harsh. Dr. Linden asked that the Board lessen this punishment.

Amy Woodbeck, Manager of the Office of Investigations, presented the case to the Board. The case involved P.A. McCarthy inappropriately obtaining samples of Viagra to provide to her husband. Ms. Woodbeck stated that this matter has also been investigated by the State Board of Nursing and that P.A. McCarthy signed a Decree of Censure with the Nursing Board.

Sandra McCarthy, P.A.-C. stated that her actions were wrong and she was remorseful for them. She stated that she was doubly wrong to take samples of any kind since there were intended for patients. She brought them home only for her husband and their relationship. She did not have knowledge that they were going to another person and did not learn of this until her husband's employer filed a lawsuit against them for their actions. P. A. McCarthy stated that her initial statement to the Board was not forthright and that she was not aware that statements made to the Board could not be used in civil litigation. In December, she submitted a full disclosure to the Board. P.A. McCarthy stated that she has never had a previous complaint and that she is dedicated to her patients. She asked that the Board allow her to continue her practice.

Sigmund Popko asked P.A. McCarthy if her husband had a condition that warranted the use of this medication. Mr. Popko noted that staff did not list any mitigating circumstances. He also mentioned that the complaining physician appeared to be the same individual involved in a previous case where individuals at the Call to the Public accused him of making false accusations in retaliation.

MOTION: Albert Ray Tuttle, P.A.-C., moved to go into executive session at 1:20 p.m.
SECONDED: Sigmund Popko
VOTE: 8-yay, 0-nay, 0-abstain/recuse, 0-abstain/recuse,
MOTION PASSED.
The meeting returned to open session at 1:26 p.m.

Joan M. Reynolds, P.A.-C. asked P.A. McCarthy if she questioned her husband's request for this medication and P.A. McCarthy stated that she did not question him. Peter C. Wagner, D.O. requested clarification of the timeline of her statements. P.A. McCarthy stated that she gave a statement in October, but did not reveal that she gave samples to her husband until she gave the second statement in December. Randy D. Danielson, Ph.D., P.A.-C. asked whether changes had been instituted with regard to office policy for dispensing samples and P.A. McCarthy responded that certain samples are now kept in a locked cabinet.

Mr. Myers, P.A. McCarthy's legal counsel, stated that he has encountered a number of different "punishments" with regard to similar offenses resulting in a Letter of Reprimand. Mr. Myers also stated that typically false statements are made on licensure applications and that this was the first case of this nature where the licensee came forward independently and told the Board she had made a misstatement. Mr. Myers asked that the Board take this into account. Statements of support have been sent to the Board on behalf of P.A. McCarthy. She has maintained a 24-year career with no complaints. Mr. Myers asked that a Letter of Reprimand be issued and Mr. Popko concurred that being untruthful to the Board warranted a Letter of Reprimand.

MOTION: Sigmund Popko moved for Draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand.
SECONDED: Randy D. Danielson, Ph.D., P.A.-C.
ROLL CALL VOTE was taken and the following Board members voted in favor of the motion: Albert Ray Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C, Randy D. Danielsen, Ph.D., P.A.-C, G. Bradley Klock, D.O., Sigmund Popko, Anna Marie Prassa, Peter C. Wagner, D.O., and Barry D. Weiss, M.D., FAAFP. James Meyer, M.D. and Michael E. Goodwin, P.A.-C. were absent.
VOTE: 8-yay, 0-nay, 0-abstain/recuse, 2-absent
MOTION PASSED.

4.	2:00 p.m.	PA-03-0025B	S.G.	TROY S. MCCARTHY, P.A.-C	2118	Draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure

Troy McCarthy appeared with legal counsel, Don Stevens of Schugart, Thompson, Kilroy of Phoenix. Amy Woodbeck, Manager of the Office of Investigations reviewed the case for the Board. Troy McCarthy, P.A.-C. obtained samples of Viagra from his wife that he dispensed to his Supervising Physician. Allegations include inappropriate dispensing of prescription drugs, maintaining inadequate patient records and failure to perform an examination. P.A. McCarthy was also not forthright with the Board regarding a previous Decree of Censure issued by the Arizona Board of Nursing.

Troy McCarthy, P.A.-C. made a statement acknowledging the fact that he has made several mistakes and has taken action to resolve these issues. The matter of providing Viagra to G.M. was revealed after G.M. filed a lawsuit against Troy and Sandra McCarthy. P.A. McCarthy did not inform the Board of his actions since he thought that this could be used

against him in a civil suit. P.A. McCarthy stated that he knows that his actions were wrong and constitute unprofessional conduct. He stated that he did not create a chart, he did a history on G.M., but he did not do a physical examination prior to giving G.M. the medication. He understands that making a false statement to the Board is extremely wrong and regrets having done this. P.A. McCarthy stated that he did not want to ever appear before the Board and that he is a good and conscientious medical provider. P. A. McCarthy stated that he has the full support of the doctors he works with now and asked that Board for fair and just discipline.

Albert Ray Tuttle, P.A.-C. called upon Sigmund Popko to question P.A. McCarthy. Mr. Popko stated that, while this case was similar to the previous case, he believed it would be viewed more seriously than that of his wife. In the case of Sandra McCarthy, she was providing the Viagra to her husband and would, presumably, have knowledge of his medical circumstances. In the case of Troy McCarthy, the Viagra was dispensed to two additional individuals, the complainant and G.M. P.A. McCarthy stated that both individuals had assured him that they had taken the medication in the past with no adverse side effects. Mr. Popko asked if any additional examination or information had been conducted prior to dispensing the Viagra and P.A. McCarthy stated it had not and that he only took a history on G.M. Mr. Popko asked if P.A. McCarthy had received payment for this medication and P.A. McCarthy stated that he did not. Anna Marie Prassa questioned P.A. McCarthy regarding how G.M. learned that he had Viagra and P.A. McCarthy stated that they were talking about it in the office and he related to G.M. that he had taken a dose and gotten a headache. P.A. McCarthy stated that he would not be taking the Viagra again and G.M. asked him to given him the rest of the samples.

Peter C. Wagner, D.O. asked P.A. McCarthy why he amended his statements to the Board. P.A. McCarthy stated the he did so because he felt bad about lying. P.A. Tuttle asked the nature of the history he had taken and P.A. McCarthy said that it included the medications he was taking. Mr. Popko asked what type of examination should be conducted to dispense this medication and P.A. McCarthy stated that he should check all of the vital signs for the patient. PA. Tuttle confirmed that the supervising physician was S.G.

In a closing statement, P.A. McCarthy stated that three additional PA's employed by this physician had received complaints, as well as another physician who was engaged to an employee at this practice. Ms. Prassa asked if P.A. McCarthy was terminated from this employment and he stated the status of his position was changed from salaried to hourly and, since this was unacceptable, he quit.

Mr. Stevens stated that letters of support were submitted to the Board. P.A. McCarthy stated that he made some bad choices and that the relationship with his supervising physician was sometimes volatile. Ms. Prassa verified that 8 pills were given to S.G., 9 to G.M. and then G.M. gave 7 of the 9 to S.G.

Mr. Popko recommended a Decree of Censure in this case because the use of the medication went outside the family to other individuals.

MOTION: Sigmund Popko moved for Draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure
SECONDED: Randy D. Danielson, Ph.D., P.A.-C.
ROLL CALL VOTE was taken and the following Board members voted in favor of the motion: Albert Ray Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C, Randy D. Danielsen, Ph.D., P.A.-C, G. Bradley Klock, D.O., Sigmund Popko, Anna Marie Prassa, Peter C. Wagner, D.O., and Barry D. Weiss, M.D., FAAFP. James Meyer, M.D. and Michael E. Goodwin, P.A.-C. were absent.
VOTE: 8-yay, 0-nay, 0-abstain/recuse, 2-absent
MOTION PASSED.

Peter C. Wagner, D.O. stated that since there were allegations that prescription medications were being traded for favors or other medical supplies by G.M. or S.G., this case should be referred to the Arizona Medical Board for further investigation of S.G. P.A. Tuttle, in his capacity as Chair asked the Deputy Executive Director to open an investigation on S.G.

EXECUTIVE DIRECTOR'S REPORT

Albert Ray Tuttle, P.A.-C. called on Amanda Diehl, Deputy Executive Director, to present the Executive Director's Report in Timothy Miller's absence. Ms. Diehl stated that the report was provided for the Board's information and that she would answer any questions the Board Members may have.

APPROVAL OF MINUTES

The minutes of the meeting of March 2, 2005 and the Executive Session held on November 17, 2004, were approved. Sigmund Popko abstained from voting for the March 2, 2005 meeting since he was not present.

NON-TIME SPECIFIC ITEMS

NO.	CASE NO.	COMPLAINANT v PHYSICIAN ASSISTANT		LIC. #	RECOMMENDATION
1.	PA-04-0042A	ARBOPA	ERIC A. CASTANEDA, P.A.-C	2129	Adopt Findings of Facts, Conclusions of Law, and Order

Albert Ray Tuttle, P.A.-C. asked if there were any questions regarding this case and, there being none, proceeded to the vote.

MOTION: Randy D. Danielson, Ph.D., P.A.-C. moved to adopt the Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand for violating a Board Order and two years probation with the following conditions: Have a third party present whenever treating a minor child in any setting; have third party provide chart review, and submit quarterly declarations of compliance with the provisions of the probation,
SECONDED: G. Bradley Klock, D.O.
VOTE: 8-yay, 0-nay, 0-abstain/recuse, 2-absent
MOTION PASSED.

2.	PA-04-0002A	ARBOPA	ERIC CAVANAGH, P.A.-C	2414	Consent Agreement for a Decree of Censure for Unprofessional Conduct

Steve Myers, Esq., spoke at the Call to the Public on behalf of his client, Eric Cavanagh, P.A.-C. Mr. Myers asked the Board to accept the Consent Agreement for the Decree of Censure that has been drafted. He stated that the Findings of Fact acknowledge that there was a somewhat serious boundary violation following a patient encounter in which the patient encouraged him to meet him for an event at which he believed other people from the same group would be present. This led to a sexual relationship and the patient lived with P.A. Cavanagh for a period of time. P.A. Cavanagh prescribed controlled substances for her without maintaining a medical record. Mr. Myers referred to a letter written by P.A. Cavanagh to the Board and expressed the hope that the Board has reviewed this document. He stated that his client has undergone rehabilitative efforts and has completed most of the PACE requirements. By June 2005, P.A. Cavanagh will have accrued 76 hours of CME in pain management and record keeping. Mr. Myers stated that, in his many years of representing physicians and physician assistants, he has never seen anyone undergo as much PACE education as P.A. Cavanagh. Mr. Myers said that the courses are expensive and his client did so enthusiastically. Mr. Myers requested that, based upon these actions, the Board accept the Proposed Consent Agreement.

Albert Ray Tuttle, P.A.-C. asked if any of the Board members had comments regarding the proposed Consent Agreement. Peter C. Wagner, D.O. asked if there was a probationary period allowing for subsequent review of the case. Christine Cassetta, Board Legal Counsel, stated that the proposed Consent Agreement did not include probation and to do so would require the Board rejecting the proposed Consent and offering new terms to P.A. Cavanagh voting for new terms. Ms. Cassetta suggested that, without doing so, staff could always conduct a chart review in the future.

MOTION: Randy D. Danielson, Ph.D., P.A.-C. moved to accept the Consent Agreement for a Decree of Censure for unprofessional conduct.
SECONDED: Joan M. Reynolds, P.A.-C.
ROLL CALL VOTE was taken and the following Board members voted in favor of the motion: Albert Ray Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C, Randy D. Danielsen, Ph.D., P.A.-C, G. Bradley Klock, D.O., Sigmund Popko, Anna Marie Prassa, and Barry D. Weiss, M.D., FAAFP. Peter C. Wagner, D.O. voted against the motion. James Meyer, M.D. and Michael E. Goodwin, P.A.-C. were absent.
VOTE: 7-yay, 1-nay, 0-abstain/recuse, 2-absent
MOTION PASSED.

The meeting was adjourned at 2:14 p.m.

[Seal]

_____
Timothy C. Miller, J.D., Executive Director