

COMMONWEALTH OF MASSACHUSETTS

BOARD OF REGISTRATION OF PHYSICIAN ASSISTANTS

**THIS AGENDA CONSTITUTES NOTICE OF THE REGULARLY SCHEDULED MEETING OF THE
BOARD OF REGISTRATION OF PHYSICIAN ASSISTANTS
IN COMPLIANCE WITH THE OPEN MEETING LAW, M.G.L. c. 30A, § 20**

**Thursday, July 10, 2014
9:30 a.m.**

**239 Causeway Street ~ 4th Floor ~ Room 417 A/B
Boston, Massachusetts 02114**

AGENDA

Time	Item #	Item	Documents	Staff Contact
9:30 a.m.	I.	Call to Order Determination of Quorum		
	II.	Approval of Agenda	Agenda	
	III.	Approval of Minutes A. June 12, 2014 Regularly Scheduled Meeting	Minutes	
	IV.	Initial License Application Review None	None	
	V.	Staff Assignments A. <u>SA-INV-5094</u> <u>Banar, Maria</u> <u>PA2266 (Expire 3/1/15)</u>	Investigation Report and supporting documents	IH

	VI.	Complaints None	None	
	VII.	Scope of Practice Inquiries A. Can a Physician Assistant have an active license and/or practice if his/her NCCPA certification has expired?	Email inquiry and handouts	
	VIII.	Regulations A. Amendments to Regulations at 263 CMR 5.07(12) B. Review of Regulations at 263 CMR 5.06	Copy of Regulations and Hand-outs Verbal	VB/DM VB/DM
	IX.	Other Business/Announcements A. Update AART Fluoroscopy Examination B. <u>Follow-up</u> : Interchange Secure File and Email Delivery System	None	IH
	X.	Flex Session A. Topics for next agenda	None	

10:30 a.m.	XI.	<p>Executive Session The Board will meet in Executive Session as authorized pursuant to M.G.L. c. 30A, § 21(a)(1) for the purpose of discussing the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual.</p> <ol style="list-style-type: none"> 1. Specifically, the Board will discuss and evaluate the <u>Good Moral Character</u> as required for registration for pending applicants. 2. Specifically, the Board will discuss and evaluate the reputation, character, physical condition or mental health, rather than professional competence, of licensees relevant to their petitions for license status change. 3. Approval of prior executive session minutes in accordance with M.G.L. ch.30A, § 22(f) for sessions held during the June 12, 2014. 	Closed Session	
	XII.	<p>Adjudicatory Session None</p>	None	
	XIII.	<p>M.G.L. c. 112, § 65C Session (Closed Session) None</p>	None	
12:00 p.m.	XIV.	<p>Adjournment</p>		

COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION OF PHYSICIAN ASSISTANTS
BOARD MEETING

July 10, 2014
239 Causeway Street, Room 417
Boston, MA 02114

MINUTES

Board Members Present: Dipu Patel-Junankar, PA-C, Physician Assistant 1, Chair
Miguel Valdez, PA-C, Physician Assistant 3, Vice-Chair
Laura Hilf, RN, MS, Public Member 1
Nicole Meregian, PA-C, Physician Assistant 2
Richard Baum, MD, Massachusetts Medical Society

Board Members Not Present: Edward Glinski, MD, Physician
Shannon Sheridan-Geldart, PA-C, Physician Assistant, Educator
Jessica Britnell, PA-C, Physician Assistant 4

Staff Present: Ichelle Herbu, Assistant Executive Director, DHPL
Anson Chu, Office Support Specialist, DHPL
Vita Berg, Chief Board Counsel, Office of the General Counsel, DPH
David Murphy, Board Counsel, Office of General Counsel, DPH

Staff Not Present: Mary Phillips, Executive Director, DHPL
Marjorie Campbell, Investigator Supervisor, Office of Public Protection, DHPL
Philip Beattie, Board Investigator, Office of Public Protection, DHPL

Guest: Michael Walsh

- I. Call to Order – Determination of Quorum
A quorum of the Board was present. The Board Chair, Ms. Patel-Junankar, called the meeting to order at 9:39 a.m.
- II. Approval of the Agenda
The Meeting Agenda was reviewed.

DISCUSSION: None

ACTION: Ms. Hilf made a motion to approve the agenda as presented; Mr. Valdez seconded the motion. The motion passed with Board members present and voting in favor unanimously.

Document: July 10, 2014 Board Meeting Agenda

III. Approval of Minutes

Minutes of the June 12, 2014 Regularly Scheduled Board Meeting were reviewed.

DISCUSSION: None

ACTION: Ms. Hilf made a motion to approve the agenda as presented; Mr. Valdez seconded the motion. The motion passed with Board members present and voting in favor unanimously.

Document: June 12, 2014 Regularly Scheduled Board Meeting Minutes

IV. Initial License Application Review

None

V. Staff Assignments

A. SA-INV-5094 Banar, Maria PA2266 (Expire 3/1/15)

DISCUSSION: Ms. Herbu reviewed the facts of the case. Ms. Banar works at Visage Sculpture, LLC in Newton, and provides injections of fillers, Sculptra, Botox, Dysport and other FDA approved non-permanent substances to reverse age, improve the contour of the face, and enhance appearance. The complainant alleged that Ms. Banar had multiple ads online regarding her practice that could be construed as misleading or inaccurate. Specifically, the advertisements indicate that Ms. Banar is a “Physician Associate”; she completed a “residency”; and left ambiguous whether she is working under a supervising physician. Board members noted that the Board’s laws and regulations do not recognize the term “Physician Associate”, and Physician Assistants do not usually complete a “residency.” The terms may mislead the public to think that she is a physician. During the investigation, Ms. Banar submitted her current scope of practice agreement which was signed by her supervising physician. The Board’s investigator spoke with Ms. Banar’s supervising physician. Board members noted there maybe potential conflicts or the appearance thereof in situations in which a PA and a supervising physician were both owners of the practice. The investigator noted Ms. Banar’s cooperation with the investigation. After a discussion, the Board deferred action pending additional information.

ACTION: Mr. Valdez made a motion to defer action on SA-INV-5094, and request that Board staff invite Ms. Banar to appear in front of the Board to respond to the Board’s questions; obtain the documents for ownership of the LLC; obtain documents from Ms. Banar regarding proof of her residency; and obtain an explanation from Ms. Banar for her reason for the use of the term for “Physician Associate”. Dr. Baum seconded the motion. The motion passed with Board members present and voting in favor unanimously.

Document: Investigation Report an Support documents

VI. Complaints

None

VII. Scope of Practice Inquiries

A. Email Inquiry: Can a Physician Assistant have an active license and/or practice if his/her NCCPA certification has expired?

DISCUSSION: Ms. Herbu informed the Board that the Board's laws and regulations are silent regarding this matter. Ms. Berg noted that the regulations requires a licensee's NCCPA certification to be current during initial licensure and reactivation licensure application after a license has lapsed; however, the regulations does not address whether a licensee is to maintain the certification. Board members noted that it would be difficult for any PA to obtain employment without the certification. Ms. Berg advised that the Board may want to consider revising their regulations to clarify the that a PA must maintain certification with a current PA license if it is an industry requirement. Board members noted that at this time the Board of Registration of Medicine does not require a physician to be Board certified. After discussion, Board members indicated that did not want to revise the regulations at this time.

ACTION: Mr. Valdez made a motion for Board staff to reply to the email inquiries with yes, a licensee can have an active license and practice with an expired certification; Dr. Baum seconded the motion. The motion passed with Board members present and voting in favor unanimously.

Document: Email Inquiries

VIII. Regulations

A. Amendments to Regulations at 263 CMR 5.07(12)

DISCUSSION: Ms. Berg reviewed the previously distributed proposed amendments to the Board's regulations and supporting memorandum. Ms. Berg noted that on May 20, 2014, the Board published a notice of public hearing for the amendments promulgated on May 8, 2014. The public hearing was held on June 20, 2014; the Board did not receive any testimony at the hearing, nor did it receive comments. In the interim, on June 11, 2014, and again on June 25, 2014, the Board of Registration in Medicine ("BORIM") updated its corresponding regulations. Based on the changes to BORIM's regulations, Ms. Berg recommended that the Board amend its emergency regulations as proposed and promulgate them as permanent regulations, so that the Board's regulations remain consistent with BORIM's regulations. Ms. Berg reviewed the proposed amendments below:

- Substituting "have failed" with "are inadequate" for the requirement that the physician make a determination that "other pain management treatments have failed" 263 CMR 5.07 (12)(1);
- Inserting "patient's data through the" into 263 CMR 5.07(12)(a) to clarify the requirement that the licensee check the online Prescription Monitoring Program;
- Inserting "pursuant to 247 CMR 9.04 (8)(c)" after the requirement "Supply a letter of medical Necessity as required by the Board of Registration in Pharmacy" in 263 CMR 5.07(12)(d) and deleting the language "that includes

the patient's diagnoses and treatment plan, verifies that other pain management treatments have failed, indicates that a risk assessment was performed and that the licensee and the patient have entered into a Pain management Treatment Agreement" from that section ."; and

- Inserting into 263 CMR 5.07(12)(c) the text "unless a Pain Management Treatment Agreement is not clinically indicated due to the severity of the patient's medical condition."

ACTION: Dr. Baum made a motion to promulgate the Amendments to 263 CMR 5.07 (12) as proposed above as permanent regulations; Mr. Valdez seconded the motion. The motion passed with Board members present and voting in favor unanimously.

Documents:

Memorandum Re: Emergency Regulations regarding Hydrocodone-Only extended release Medications that are not in an Abuse deterrent Form and Proposed amendments to the Board's regulations; and Proposed amendments to 263 CMR 5.07(12).

B. Review of Regulations at 263 CMR 5.06

DISCUSSION: Ms. Berg informed the Board that Masshealth is in the process of changing its regulations to include PAs as primary care provider. However, Masshealth has concerns regarding the Board's regulations at 263 CMR 5.06, Billing, PA may not bill separately for services rendered. Ms. Berg noted that with the changes in legislation that recognized PAs as primary care providers, 263 CMR 5.06, may not be relevant and/or necessary. Board members noted that the change in legislation allowed PAs to carry their own panel of patients, but not for separate billing from a supervising physician. Section 5.06 maintains the premise that a PA is a dependent practitioner and is not the primary decision-maker when it relates to patient care. Further, other insurance companies have implemented the change and issued PAs a provider numbers. Board members determined that the section continues to be relevant to the practice of PAs in MA and should not be rescinded.

ACTION: None

Document: None

IX. Other Business/Announcements

A. Update: American Registry of Radiologic Technologists ("ARRT") Fluoroscopy Examination

DISCUSSION: Ms. Herbu informed the Board that Radiation Control Program ("RCP") staff reports twenty PAs have applied to take the exam and eleven have passed the exam. RCP staff did not report any PAs failing the exam. Dr. Baum noted that the updates for the examination can be on a quarterly basis and should include updates on candidates who have failed the examination.

ACTION: None

Document: None

- B. Follow-up: Interchange System Instructions- Ms. Herbu inquired if the Board had any issues or concerns after using the Interchange system.

- X. Flex Session
Topics for next agenda

Board Members requested that the following topics be added to the August 2014 meeting agenda:

1. Discussion: Medical Marijuana and Physician Assistants
2. Discussion: individuals employed by the federal government with a MA license
Update: legislation regarding the Bachelor's degree requirement
3. Update: Status on complaints pending in prosecution

[BREAK TIME: 10:45 a.m. – 10:53 a.m.]

- XI. Executive Session (closed session)

At 10:54 a.m., Ms. Dipu Patel-Junankar announced that the Board will meet in Executive Session as authorized pursuant to M.G.L. c. 30A, § 21(a)(3) for the purpose of discussing the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual.

1. Specifically, the Board will discuss and evaluate the response of an applicant to the Good Moral Character provision of the PA application.
2. Specifically, the Board will discuss and evaluate the reputation, character, physical condition or mental health, rather than professional competence, of licensees relevant to their petitions for license status change.
3. Approval of prior executive session minutes in accordance with M.G.L. ch.30A, § 22(f) for sessions held during the June 12, 2014.

Ms. Mergian made a motion to enter into Executive Session at 10:54 a.m.; Mr. Valdez seconded the motion; motion passed by unanimous roll call vote with Board members present and voting in favor: Ms. Dipu Patel-Junankar: yes; Mr. Miguel Valdez: yes, Ms. Laura Hilf: yes; Dr. Richard Baum: yes; and Ms. Nicole Meregian: yes Opposed: None Abstained: None Recused: None

The Board adjourned the Section Executive Session at 11:10 a.m. and resumed its Regularly Scheduled Board Meeting.

- XII. Adjudicatory Session (closed session)
None

XIII. M.G.L. c. 112, § 65C Session (closed session)
None

XIV. Adjourn

There being no other business before the Board, Ms. Hilf made a motion to adjourn the Meeting; Dr. Baum seconded the motion. The motion passed with Board members present and voting in favor unanimously. The Meeting adjourned at 11:11 a.m.

The next meeting of the Board of Registration of Physician Assistants will be held on Thursday, August 14, 2014, at 9:30 a.m. at 239 Causeway Street, Boston, Massachusetts.

Respectfully submitted:

Dipu Patel-Junankar, PA-C, Chair

Date