

## Minutes

The Physician Assistant Advisory Committee of the Oklahoma Board of Medical Licensure and Supervision met on October 12, 2017, in accordance with the Open Meeting Act. The meeting was held at the office of the Board, 101 NE 51<sup>st</sup> Street, Oklahoma City, Oklahoma. Advance notice of this regularly scheduled meeting was transmitted to the Oklahoma Secretary of State on November 1, 2016 and posted on the Board's website on October 11, 2017. The notice and agenda were posted in prominent public view on the front doors of the Oklahoma Board of Medical Licensure and Supervision building located at 101 NE 51st Street, Oklahoma City, Oklahoma on October 11, 2017 at 9:30 a.m.

### Members present were:

Don Flinn, PA-C, Chair  
Louis Cox, MD  
\*Charles Womack, MD  
Anthony Sharp, MHS, PA-C  
Lindsey Gillispie, PA-C  
Scott Williams, DO  
Shannon Ijams, MPAS, PA-C - OU-Tulsa, Program Director  
Mark Britton, Pharm. D., as designee of Dan McNeill, PhD, PA-C – OCU,  
Program Director

### Members absent were:

Dennis Carter, DO  
Jim Brand, MD, Interim Director of OU-OKC Physician Assistant Program  
Dan McNeill, PhD, PA-C – OCU, Program Director

### Others present included:

Lyle Kelsey, Executive Director  
Reji Varghese, Deputy Director  
Barbara J. Smith, Executive Secretary  
Teresa Mitchell, Director of Licensing  
Kenna Shaw, Administrative Technician (Licensing)

Having noted a quorum, Mr. Flinn called the meeting to order at 3:07 p.m.

Following Committee review, Ms. Gillispie moved to approve the minutes of July 27, 2017, as written. Ms. Ijams seconded the motion and the vote was unanimous in the affirmative.

\*Dr. Womack joined the meeting

The Chair re-ordered the agenda due to telephonic connection difficulties with Steven Smith, MD, supervision physician of Micaela Bounds, PA.

Following Committee review, Ms. Gillispie moved to recommend approval of the following incomplete applications for Physician Assistant licensure pending completion of the file. Dr. Womack seconded the motion and the vote was unanimous in the affirmative.

PA 2819 KOCH, HILDA BEATRIZ	PA 2854 MIETUS, NICHOLAS ALBERT
PA 2820 OLIVELLA, HARRY JAMES	PA 2855 CHAU, CHRISTINA
PA 2821 HENDERSHOT, CHESTER ALAN JR.	PA 2856 NGUYEN, THUC-VI
PA 2822 FLOOD, STEPHANIE MARIE	PA 2857 BRISBIN, STEPHANI BROOKE
PA 2823 PLUNK, JESSICA JANAE	PA 2858 IRETON, RACHEL AMELIA
PA 2824 PATZKOWSKY, KRISTIN MARIE	PA 2859 STEPHENS, VIRGINIA JULIAN
PA 2825 MATLI, JORDAN B	PA 2860 GUDERIAN, KRISTEN PAIGE
PA 2826 BAUKAL, CAITLYN ELIZABETH	PA 2861 SHELDON, TARYN MARIE
PA 2828 LITTLE, ERIN PAIGE	PA 2862 ARMSTRONG, KELSEY L
PA 2829 LILES, LAUREN MEGHAN	PA 2863 ISLAM, MOHAMMAD S
PA 2830 KAPPEL, VICTORIA ANN	PA 2864 PEARSON, ABIGAIL
PA 2831 SWENTON, REGINA CATHERINE	PA 2865 KARR, HANNAH
PA 2832 BEASLER, ALFRED M III	PA 2866 DELUNG, MARY LYNNE
PA 2833 VAUGHAN, HANNAH MARIE	PA 2867 ENLOE, KACY VAWN
PA 2834 AVILEZ, NICOLE ELYSE	PA 2868 BURTON, MEAGAN DEANE
PA 2835 COFFMAN, SKYE CLARICE	PA 2869 TODD, ATHENA
PA 2836 HOBBIE, TAMMY SUE	PA 2870 CARTER, EMILY ANN
PA 2837 EDERER, AUSTIN KURT	PA 2871 RAY, LAURIE ANN
PA 2838 SMITH, KRISTEN KAY	PA 2872 BYRNE, CORI ANNE
PA 2839 DEATHERAGE, LUYEY YVONNE	PA 2873 PARKINS, CORINNE
PA 2840 TURNER, NANCY-KA ELIZABETH	PA 2874 VANVALIN, MATTHEW
PA 2841 MATTOX, JEREMIAH	PA 2875 WILCOX, CATHERINE FALGOUT
PA 2842 DALIMONTE, MERRIA	PA 2876 SIMS, MIKAYLA
PA 2843 HALL, RAHMAH FIRDAUS	PA 2877 MILLER, JESSICA FORD
PA 2844 METHENY, MICAH STEVEN	PA 2878 NAVARRO, VALERIE
PA 2845 WILLIAMS, MITCHELL SCOTT	PA 2879 HAIL, ADAM MICHAEL
PA 2846 STEIN, TIMOTHY JOSEPH	PA 2880 SANDERS, ZACHARY FARRIS
PA 2847 FALKENSTERN, REBECCA E	PA 2881 KASSEM, MEGAN B
PA 2849 TRAN, TO-VAN THI	PA 2882 HOELSCHER, KRISTEN
PA 2850 SWEETIN-LEWIS, HILLARY JO	PA 2883 BOUCHER, LAURA MICHELLE
PA 2851 KRIEGER, COLEEN RAE	PA 2884 DAO, CHRISTINE
PA 2852 PRATT, LAUREN VIRGINIA	PA 2885 BADAROUX, STEPHANIE
PA 2853 SHUART, JORDAN ELISABETH	PA 2886 STRUTHERS, RACHELE ALYSE

Ms. Gillispie moved to recommend approval of the following incomplete applications for reinstatement of Physician Assistant licensure pending completion of the files. Dr. Womack seconded the motion and the vote was unanimous in the affirmative.

PA 790 SADLER, TONY DUANE	PA 1024 SNYDER, REBECCA JO
PA 1034 SQUIRES, JASON SCOTT	

Ms. Gillispie moved to recommend approval of the following complete applications for Physician Assistant licensure. Dr. Womack seconded the motion and the vote was unanimous in the affirmative.

**PA 2827 TURNER, LINDSAY ANN**

**PA 2848 DIEMER, JOELI PATRICE**

Dr. Womack moved to recommend approval of the PA1 List of Additional Supervising Physicians as presented. Ms. Ijams seconded the motion and the vote was unanimous in the affirmative. *(See Attachment #1)*

Dr. Womack moved to recommend approval of the PA7 List of Transfers as presented. Ms. Gillispie seconded the motion and the vote was unanimous in the affirmative. *(See Attachment #2)*

Next, **MICAELA BOUNDS, PA**, appeared in person regarding a Form 5 to practice under Steven Smith, MD, with a start date of March 30, 2017. Curt Dewberry and Zoe Butts, attorneys, appeared with Ms. Bounds. Steven Smith, MD, connected to the meeting via teleconference.

Ms. Bounds stated she started working for the University of Oklahoma on March 30, 2017 and the credentialing department was completing her paperwork. She began seeing patients in April. She mistakenly thought that OU would also complete her licensing paperwork based on her prior employment experience. As soon as the issue was brought to her attention, she took immediate steps to correct the matter, thus the late submission of the Form 5. She informed the Committee she knows it was her responsibility to ensure her licensing paperwork was up to date (Form 5 submitted) and assured the Committee it would not happen again. Following a brief discussion, Ms. Gillispie moved to recommend approval of the application of Micaela Bounds. Dr. Williams seconded the motion and the vote was unanimous in the affirmative. *(Ms. Bounds has held an Oklahoma Physician Assistant license since 2015 and therefore this action is moot.)*

Next, Lyle Kelsey, Executive Director, presented Oklahoma Attorney General Opinion 2017-11 for review and discussion. The first item addressed involved whether program directors are considered voting (participating) members of the Physician Assistant Advisory Committee?" *(See Title 59 O.S. §519.3.F.2)*. Mr. Kelsey explained that the official opinion of the Attorney General is that the "...directors of the State's physician assistant training programs, who are acting in their statutory role as Committee members, may participate in reviewing the applications of students from the programs they oversee and make recommendations to the Board regarding the applicants' licensure." Mr. Kelsey said it appears that no rule changes or law changes are needed.

The second and final item addressed involved if the Oklahoma Association of Physician Assistants ("OAPA") could charge for tracking continuing education units ("CEUs"). *(See Okla. Admin. Code 435:15-3-17(c))*. Mr. Kelsey explained that all other allied professionals present their CEUs for tracking/verification/approval through the advisory committee of the Oklahoma Medical Board. The PA Advisory Committee is different in this regard because the PA licensee has had a two-tier system tracking/verification/approval system. For the PA who is a member of OAPA, the membership fee includes the association verifying the CEUs and there is no

additional charge for that service. For the PA who is not a member of OAPA, they have to pay the association a fee for that CEU Verification service. The AG Opinion states that although the committee may delegate merely ministerial functions in the absence of statute... they cannot delegate powers and functions which are discretionary.... Mr. Kelsey advised that practice will have to stop; however, the PAs may get their CEU credits tracked/verified/approved through the Oklahoma Medical Board. He also stated this may require a law and/or rule change. Mr. Kelsey will meet with OAPA representatives next week to discuss the AG Opinion 2017-11 and the current laws and rules and possible changes. When he has answers concerning the new CEU process, he will bring an update to the Committee. Ms. Ijams asked for clarification on one point. She asked: Since the Opinion states that a "separate fee" cannot be required for this CEU verification service, is it anticipated that OAPA will still be able to provide this service for its members? Mr. Kelsey stated it certainly might be and that is one of the issues they will need to review and discuss. The **OAPA** non-member will need to go ahead and have their CEUs verified through the Medical Board. The key factor is the non-member will not have to pay OAPA for that service. *(See Attachment #3)*

There being no further business, Dr. Womack moved to adjourn the meeting. Ms. Ijams seconded the motion and the vote was unanimous in the affirmative. The meeting was adjourned at 3:36 p.m.

## PHYSICIAN ASSISTANT ADVISORY COMMITTEE - 10/12/17

### PA 1 ADDITIONAL SUPERVISING PHYSICIANS

PA #	PHYSICIAN ASSISTANT	SUPERVISING PHYSICIAN
PA 45	BUTZIRUS, GORDON REED	JON MAXWELL, DO 2104
PA 200	FOX, DAN PAUL	ROSS FISHER, MD 15687
PA 318	GRAY, PETER LYNN	CRAIG ABBOTT, MD 17800
PA 330	WIESE, KIM KEITH	SHEILA STANEK, DO 3222
PA 334	POWERS, CHARLES MICHAEL	KEVIN GORDON, DO 4127
PA 431	MOSS, BONNIE D	MARTY LOFGREN, MD 25993
PA 464	A'BELLE, N DEVONNA	DAVID MILLER, MD 20875
PA 536	DUNAGAN, MARY ANNETTE	MICHAEL COLLINS, MD26073
PA 553	MCDOWELL, MARGARET ANN	NATHAN REUSSER, DO 4266
PA 618	LUCAS, AVIS JEWEL	MARC DAVIS, DO 3540
PA 619	OWENS, ELMER GARI	GARLANDA PARKER, MD 16134
PA 635	PATY-BAKER, KENDA GALE	WESLEY ANDREWS, MD 19448
PA 670	FALCONER, RALPH TILLMAN	MONICA WOODALL, DO 4972
PA 674	WILLIAMS, FRANK RUSSEL	SAM MUSALLAM, MD 11815
PA 757	SHANDY, TONJA SUE	ROBERT WIECK, DO 2762
PA 766	GRECO, AMY COHLMIA	TU BUI, MD 29909
PA 807	BIVENS, JEFFREY DON	KARI HOOPER, MD 31764
PA 811	HAMBLIN, JEFFREY FLINT	MONICA WOODALL, DO 4972
PA 812	ROGERS, ROY KENT	MONICA WOODALL, DO 4972
PA 826	NIEHUES, CHRISTY ANN	TIFFANY BRAZEAL, MD 27705
PA 844	PALMER, MARCIA RASCOE	TIMOTHY VAVRICKA, MD 24483
PA 861	BERTUS, MATTHEW STEVEN	STEPHEN SPARKS, DO4559
PA 917	CUMMINGS, DEANNA JOHNSTON	AKIN OGUNDIPE, MD 18134
PA 924	PHILLIPS, ROB MCGREGOR	BENJAMIN FORE, DO 2273
PA 969	MARTINDALE, STEPHANIE RUTH	JOSEPH BROOME, MD 23006
PA 1068	BENTON, MICHAEL JON	BRENT BROWN, MD 15270
PA 1095	MITCHELL, ANDREA DIANE	JAMES CAMPBELL, DO 1880
PA 1139	EATON, JULYE MARIE	SHYVONNE GRAY, MD 27895
PA 1189	PAYNE, KATHERINE J	LEE RITTENHOUSE, MD 12365
PA 1237	ATWOOD, PEGGY S	WELLIE ADLAON, MD 21084
PA 1314	THORNTON, JANA LYNN	MUDASSIR NAWAZ, MD 24893
PA 1327	PIPKINS, LESLEY KATHRYN	CHRIS HANCOCK, DO 5221
PA 1346	HANES, RICHARD DEAN	DONALD HASLAM MD 13136
PA 1421	BIRCH, JENNIFER JOY	SHYVONNE BROOKE, MD 27895
PA 1430	CHRISTIAN, MICHAL GERALYN	RACHEL DALTHORP, MD 27766
PA 1536	TOUGAS, BERNARD	DARIO ESPINA MD 14997
PA 1540	OWEN, MAX EDWARD	NATHAN REUSSER, DO4266
PA 1575	MEDINA, JOSE ANTONIO	BILL BUFFINGTON, MD 15483
PA 1636	MCGRAW, JILL D.	CRAIG ABBOTT, MD 17800
PA 1676	GARONE, ELIZABETH KEMP	JEFFREY BUYTEN, MD 26178
PA 1699	MILLER, TERESA BETH	EVELYN LORENTS, MD 29228
PA 1701	ARMS, TODD DAVID	SYLVIA GRAY, MD 30601
PA 1707	WARD, MARY ANN	WILLIAM WOOD, MD 20449
PA 1710	NOEL, STEPHANIE MARIE	SEAN TUCKER, MD 27982
PA 1785	GATES, JASON AARON	CORY KEBERT, MD 26794
PA 1837	HANSON, RICHARD ENNISS	MATTHEW RUMSEY, MD 30848
PA 1847	HENSLEY, CRYSTAL JONES	JEFFREY JOHNSON, MD 24910
PA 1938	BARNETT, PETER MICHAEL	VIVIAN HASBROOK, MD 18945
PA 1970	TORRES, AMIE MELISA	YADER MENDOZA, MD 27194
PA 1971	TARVER, SUZANNE	EDWIN ELLIS, MD 8832

PA	1972 HART, JESSE STEVEN	JOHN DAVID WALSH, MD 22850
PA	1993 ENYART, SARA JEAN	MICHELLE KELLEY, MD 20270
PA	2008 DINAN, JEROME DARIO ALDO	JOHN DAVID WALSH, MD 22850
PA	2013 CAMPBELL, AMY MARIE	BENJAMIN FORE, DO 2273
PA	2077 JONES, STEPHANI LYNN	ALFRED HUSEN, DO 4527
PA	2079 HEAD, LINDSEY ERIN	STEVEN HINSHAW, DO 2748
PA	2090 HOWARD, BRYAN SCOTT	CHRISTOPHER STOKES, MD 31385
PA	2100 BROWN, JENNIFER MARIE	SACHIDANANDAN NAIDU, MD 21643
PA	2103 CONTRERAS, JAYNE ELIZABETH	DAVID GILBERT, MD24621
PA	2106 SCOTT, ALLISON JANELLE	TRINITY LOVELESS, MD 25703
PA	2109 WAINWRIGHT, TINA MARIE	MEGAN WILSON, DO 5468
PA	2122 ANGLIN, JOHN	RODNEY MCCRORY, DO 2750
PA	2156 FIORENTINO, RAQUEL	MICHAEL MARTIN MD 22447
PA	2239 BOHANNON, QUINTON TY	AZHAR SHAKELL MD 25016
PA	2242 HARRINGTON, DANIEL ALFRED	NATHAN REUSSER, DO 4266
PA	2261 TYSZKO, SARAH LYNN	COURTNEY RANALLO, MD 29796
PA	2291 FORD, KELLEY LEE	PAUL HOWELL MD 18960
PA	2305 HART, GORDON	BENJAMIN QUIAMBAO, MD 24708
PA	2309 FITE, NATHAN WAYNE	BRIAN KEITH MD 24887
PA	2371 MCCAULEY-YOUNG, ANGELA	ARIEL ERIK SANTOS LUFKIN, MD 30231
PA	2373 ANDERSON, KERI A	JEFFREY SHUART, MD 18498
PA	2387 PERKINS, DENNIS	JOHN WALSH, MD 22850
PA	2406 LAI, DENNIS QUINTIN	CHRISTOPHER ABSHERE, MD 22293
PA	2421 TOMLIN, RACHEL BREANNE	ANDREW BARSALOUX, MD 20771
PA	2445 MCCART, ERIC DEAN	CHARLES RODMAN DO 4328
PA	2462 GOSSSEN, MORGAN AMANDA	BRENT BROWN, MD 15270
PA	2497 BOUNDS, MICAELA	STEVEN SMITH MD19075
PA	2508 JOHNSTON, JEFFREY NEIL	ARIEL LUFKIN, MD 30231
PA	2552 MYCHAK, NATHAN ZACHARY	BRETT CAUTHEN, MD 25197
PA	2555 ALCORN, HEATHER ANNE	JARROD MUEGGENBORG, DO 4935
PA	2595 CHRISTENSEN, KELLI JEAN	GLENN LYTLE, MD 16019
PA	2637 BEAVER, KEVIN EDWIN	JAMES FITZGERALD, DO 3949
PA	2644 BUCKLEY, RILEY MARIE	JONATHAN BUSHMAN, DO 5032
PA	2659 MARR, DREW J.	ROBERT BOYLES DO 4054
PA	2680 VISCARRA, SARAH ELIZABETH	BRETT BARNES, MD 32255
PA	2697 MACIAS, LOREN	JORDAN POPE, MD 28494
PA	2699 THOMAS, LINDSEY CHALEE	STEVEN MILLER, MD 26034
PA	2700 LEE, PHOAY LUAN	DONALD CURRAN, DO4157
PA	2705 LE, HUY JAMES D	STERLING RIGGS, MD 27193
PA	2732 RAMEY, MORGAN BROOKE	ROXIE ALBRECHT, MD 22548
PA	2733 GOLLAHALLI, TONYA LYNETTE	GEORGE TARDIBONO, MD 19089
PA	2737 BREWER, BRENT JASON	JEFFREY GRANTHAM, MD 29024
PA	2738 BROWN, JACOB C.	AMANDA THEYS-DOROUGH, DO 5152
PA	2766 WEST, AMBER NICOLE	BARBIE RYGIEL, DO 3048
PA	2767 PARK, ELIZABETH CHRISTINE	THOMAS GUIRKIN, MD 31985
PA	2780 BLUE, JEFFREY KENNETH	CODY MCCORKLE, MD 31196
PA	2787 DUNNING, JENNIFER KAY	RACHEL DALTHORP, MD 27766
PA	2788 MOTZ, JENNIFER ANN	ADRYAN KADIVAR, MD 24162
PA	2789 WALTON, ELIZABETH BAIRD	FRANK GAFFNEY, MD 23819
PA	2790 ROBINSON, SARAH TYNDALL	DANIEL MACKAY, MD 32692
PA	2791 SHUMWAY, AMANDA LYNN	DAVID DUVALL, MD 31273
PA	2792 HERNANDEZ, MEYLING	DAVID MINOR, MD 14933
PA	2794 DAVIS, JULIE KRISTINE	IOANNIS KARAMICHALIS, MD 30424
PA	2801 GUNTHER, BRET J	CHRISTOPHER SIMIC DO5029
PA	2806 HALE, KAYLA	BRENT WILSON MD 17280

PA 2813 PARTRIDGE, AMANDA JUSTINE  
PA 2848 DIEMER, JOELI PATRICE

MAYA BASS MD 31998  
KEVIN CONATSER DO 3562

**PA7 TRANSFER LIST - PHYSICIAN ASSISTANT - 10/12/17**

<b>PA</b>	<b>#</b>	<b>PHYSICIAN ASSISTANT</b>	<b>SUPERVISING PHYSICIAN</b>
PA	162	CLICK, JOHN W.	KRISTEN JORDAN, MD28482
PA	170	EVANS, BILLY ROYCE	EDWARD ALLENSWORTH, MD 7756
PA	195	BULLARD, ROBERT LEE	BRETTY GRAY, MD 19493
PA	499	GORDON, AMY LYNN	JEFFREY GRANTHAM, MD 29024
PA	564	DICINTIO, ROBERT CHARLES	KRISTIN MILLER, MD 31454
PA	638	MAXWELL, KEVIN JAY	PAUL JOHNSON, MD 14767
PA	660	HOLDER, DEBORAH DEE	RAKESH SHRIASTAVA, MD 27981
PA	693	TANNER, ANITA LOUISE	LEE RITTENHOUSE, MD 12365
PA	701	KNIGHT, NATALEE NICOLE	ZANE HARVEY, MD 23552
PA	705	HUGHES, AMY KATHLEEN	AUDRALAN FOX, MD25086
PA	740	PHILLIPS, JEFFREY DON	SAMANTHA JACKSON, MD 19876
PA	765	GRESHAM, THOMAS JEROME	JESS ROY, DO 3989
PA	788	JOHNSON, MICHELE LYNN	ALEX MIRAKIAN, MD 32517
PA	800	GREEN, PHIL JAMES	TAMMY HICKS (JARVIS), DO 3915
PA	806	BIVENS, ELIZABETH EDITH	LENARD PHILLIPS, DO 3813
PA	864	DANIELSON, SARAH VADEN	MELINDA CAIL, MD 22017
PA	889	WALKER, ALIA MELISSA	SEAN BAKER, DO 4379
PA	956	KAGAN, MARC	HOLLY GORACKE, MD 27931
PA	979	LEU-HENTHORN, ANDREA KATHERINE	WILLIAM WELDEN, MD 18917
PA	1017	ODOM, AMANDA KAYE	RONALD HOPKINS, DO 2282
PA	1047	BATTOE, MARY KAY	STEVEN FEHER, MD 23042
PA	1052	MONROE, JOE RANDALL	RAYMOND CORNELISON, MD 9074
PA	1200	PFLUGHOFT, MICHAEL JOHN	RICHARD HARTMAN, MD 19847
PA	1202	DODSON, JENNIFER REBECCA	PAUL JACOB, DO 5494
PA	1218	DAGENAIS, MARY J	PEDRO MURATI, MD 19671
PA	1239	ROARK, SALLY MARIE	BRIAN COLEMAN MD20823
PA	1243	DAVIS, AMBER LYNN	MONIKA DURSKA-KELLER MD 29601
PA	1278	CHERRY, RONDA LYNN	ANDREW KELLY, MD 30014
PA	1326	GARCIA, ARNULFO ALEXANDER	RAKESH SHRIVASTAVA, MD 27981
PA	1347	BARBETTINI, ANTHONY NICHOLAS	MICHAEL VU, MD 19504
PA	1352	CHEEK, DOUGLAS EDWARD	DOUGLAS ROWLES, MD 30905
PA	1355	BOLTON, SHARON P	CRAIG CARSON, MD 17781
PA	1384	FREEMAN, MATTHEW LYNN	JAMES BAKER, MD 14613
PA	1400	WROBLESKI, ANGELA MARIE	EDWARD FORD, MD 28432
PA	1408	PARKER, KRISTI MICHELLE	GREGORY JIA, MD 19082
PA	1489	REINHARDT, LAURA ALLISON	MICHAEL GODDARD, MD 10925
PA	1494	WENNER, TREKA BROOKE	JIGNESH VERAGIWALA, MD 23499
PA	1528	CLARK, JULIE BETH	TONY BROWN, DO 3653
PA	1535	GRIGGS, JANIS KAY	DAVID MILLER, MD 20875
PA	1587	SIMON, MINDY KAY	JOSEPH BLOUGH, MD 19535
PA	1609	ABBOTT, MONICA FAYE	RAYMOND CORNELISON, MD 9074
PA	1615	RICHARDSON, MICHAEL SHANE	KENNEDY OKERE, MD 22251
PA	1617	BENISH, RANDY E	ROBERT HENDERSON, MD 16816
PA	1619	GORTON, JORGE ALLEN	KEVIN PENWELL, DO 3873
PA	1638	NGUYEN, NHANHIEN DUC	RAKESH SHRIVASTAVA, MD 27981
PA	1641	WEBSTER, KAREN LEIGH	GLENN LYTTLE, MD 16019
PA	1670	GRAHAM, BRIAN	BRIAN CHALKIN, DO 3711
PA	1710	NOEL, STEPHANIE MARIE	GREG KREMPL, MD 19376
PA	1720	HARMON, JENNIFER JOY	LIPHARD D'SOUZA, MD 15158
PA	1725	RASMUSSEN, KEITH ALEX	KRISTIN MILLER, MD 31454
PA	1760	MADDUX, DAVID GARY	MARK SCHWARTZ, DO 5116



PA	1784 PARR, SARA MICHELLE	DUSTAN BUCKLEY, MD18504
PA	1790 O'DONNELL, ERIN LEA	PATRICK GARRISON, MD 23948
PA	1816 HOGAN, JAMES CAMERON	THEODORE WARE, DO 3516
PA	1820 BATT, STEPHANIE ALISHA	HETLEVIA ROSA VILAR-JENSEN, MD 23895
PA	1823 CARTER, ANDREW KYLE	ANTON SURJA, MD 25371
PA	1866 KRUEGER, ERIN M	DAVID VANHOOSER, MD 14368
PA	1892 TOFT, TRACY JANE	R. LACY ANDERSON, MD 24044
PA	1919 JACK, SAMARA JA'NEL	ISRAEL MAYS, MD 30924
PA	1943 WHITE, TAYLOR CARROL	JAMES VOLLERS, MD 31959
PA	1960 LUETKEMEYER, JESSICA LEE	LAMONT CAVANAGH, MD 18457
PA	1972 HART, JESSE STEVEN	SAMEER ZAFAR, MD 27186
PA	1993 ENYART, SARA JEAN	MICHELLE KELLEY, MD 20270
PA	1998 JACOBY, SHANNON MICHELLE	EDWARD FORD, MD 28432
PA	2012 ROUGRAFF, KATHRYN ANN	ANDREW GORMLEY, MD 20757
PA	2087 SPELLS, AARON	SUMMER KIRBY, MD 26444
PA	2153 PALMORE JR, JOHN ROBERT	DAVID MALONE, MD 19416
PA	2174 CHOPLIN, RYAN ANTHONY	MELANIE MCCARROLL, MD 31263
PA	2218 FROST, JILL WHITNEY	AMY DARTER MD 20754
PA	2228 SMITH, TARYN ALISE	STEPHANIE PICKETT, MD 29015
PA	2231 MASHBURN, WHITNEY TYLER	HILLARY LAWRENCE, MD 30146
PA	2246 KNOTT, MICHELLE	ROBERT VALENTINE, MD 27774
PA	2258 SILER, JESSI MARIE	KEVIN PENWELL, DO 3873
PA	2267 WHITE, JONATHAN ANDREW	CHARITY HOLDER, DO 5395
PA	2285 HOSKINS, JOSEPH DAVON MARKEI	LANCE SMITH, MD 27090
PA	2301 HARRIS JR, DANIEL LESTER	THEODORE WARE, DO 3516
PA	2305 HART, GORDON	BRIAN CAFARO, MD 25083
PA	2309 FITE, NATHAN WAYNE	THEODORE WARE, DO 3516
PA	2336 AGEE, ASHLEY ELIZABETH	AMANDA THEYS-DOROUGH, DO 5152
PA	2365 BROUSSARD, MONICA D	DANIEL BOEDEKER, MD 24729
PA	2369 SHERRILL, DONA ELIZABETH	AMANDA THEYS-DOROUGH, DO 5152
PA	2379 YOUNG, ROBERT RANDELL	SAMEER ZAFAR, MD 27186
PA	2413 CLEM, DAVID ALLEN	BOB THOMPSON, DO 2030
PA	2420 MURPHY, DANIELLE DUTCHER	DAVID LIFF, MD 31754
PA	2422 WHITE, NATHAN BOYD	ANDREW KELLY, MD 30014
PA	2434 BIGBY, BETHANY ANN	ANTHONY HANEY, MD 27338
PA	2459 BUTTS, ALLYSON TAYLOR	AMANDA THEYS-DOROUGH, DO 5152
PA	2496 CHAMBERS, JILLIAN	DOUGLAS RIDDLE, MD 23957
PA	2524 HAND, RACHEL ANN	DONALD COURTNEY, MD 33141
PA	2547 HOMER, KELLEN WILLIAM JOSEPH	TERESA FOLGER MD 14755
PA	2563 DAWSON, MICHELLE RENE	GEORGE PENDELL, MD 18257
PA	2578 SIMONSON, NATASHA NICOLE	DEREK WEST, DO 4001
PA	2616 JACKSON, CARL DOUGLAS	AMY JARVIS, MD 27219
PA	2625 TATUM, TAYLOR ELAINE	GREGORY HILL, DO 3165
PA	2646 GREWELL, PAIGE ELIZABETH	BRANDON RHINEHART, DO 4552
PA	2681 KRONENWETTER, CAITLIN MARIE	JEFFREY SPARLING, MD 23000
PA	2700 LEE, PHOAY LUAN	SANDRA GILLILAND, MD 23991
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OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION  
2017-11

Lyle Kelsey, Executive Director  
Oklahoma Board of Medical Licensure and Supervision  
101 N.E. 51<sup>st</sup> Street  
Oklahoma City, Oklahoma 73105

September 6, 2017

Dear Executive Director Kelsey:

The Oklahoma Office of the Attorney General has received your request for an official Attorney General Opinion in which you have asked in effect the following questions:

1. **May the Director of a physician assistant training program, sitting as a member of the Physician Assistant Advisory Committee, evaluate the application of a former student of that Director's program and make a recommendation as to whether the former student should be licensed?**
2. **May the State Board of Medical Licensure and Supervision, for the purpose of license renewal, require a licensed physician assistant to pay a fee to a private professional association to log and report the licensee's continuing medical education hours?**

I.  
BACKGROUND

The licensure of physician assistants is governed by the Physician Assistant Act, 59 O.S.2011 & Supp.2016, §§ 519.1–524 (“the Act”). The Act grants the State Board of Medical Licensure and Supervision (“the Board”) the power and authority to promulgate rules governing the licensure, standards of training, and standards of practice of physician assistants. 59 O.S.Supp.2016, § 519.3(D). Additionally, the Board is authorized to “approve institutions for training” physician assistants. *Id.* The Board has further authority to investigate complaints, hold hearings, and revoke licenses. *Id.* § 519.3(E).

While the Board has the sole authority to issue and revoke licenses, license applications are first reviewed by the Physician Assistant Advisory Committee (the “Committee”), which then makes a

recommendation to the Board. *Id.* § 519.3(F)(2). Composed of three physician assistants, two allopathic medicine physicians, and two osteopathic physicians,<sup>1</sup> the Committee also advises the Board more broadly “on all matters pertaining to the practice of physician assistants.” *Id.* § 519.3(F)(1). When advising the Board on applications for licensure, establishing standards of training, or approving institutions for training, the Committee is enlarged to include “the Director, or designee, of all the Physician Assistant educational programs conducted by institutions of higher education in the state[.]” *Id.*<sup>2</sup>

## II. DISCUSSION

### A. The director of a physician assistant training program may participate as a member of the Physician Assistant Advisory Committee to evaluate the application of a former student of that director’s program.

In your first question, you ask whether a director of a physician assistant training program, when sitting as a member of the Committee to evaluate candidates for licensure pursuant to Title 59, Section 519.3(F)(2), may evaluate the application of a former student of that director’s program and make a recommendation as to whether the former student should be licensed. Your question appears to be premised on conflict-of-interest and partiality concerns. However, we find such concerns unfounded for the following reasons.

First, there is no facial impropriety in a director participating in the evaluation of a former student because the Board’s enabling act expressly requires it. For the purpose of “considering applicants for licensure”—many of whom are likely graduates of the State’s physician assistant programs—the Committee is expressly expanded to include the directors of those programs, and the statute makes no exception for directors evaluating their programs’ former students. 59 O.S.Supp.2016, § 519.3(F)(2). In fact, the directors are a likely source of pertinent information regarding the only subjective criterion for licensure: the applicant’s moral character. *See* 59 O.S.2011, § 519.4(1). If the Legislature had intended to restrict the directors’ role to evaluating those candidates who are *not* their former students, the Legislature could have done so. “[L]egislative silence, when it has authority to speak, may be considered as giving rise to an implication of legislative intent.” *City of Duncan v. Bingham*, 1964 OK 165, ¶12, 394 P.2d 456, 460; *see also Cox v. State ex rel. Okla. Dept. of Human Services*, 2004 OK 17, ¶ 26, 87 P.3d 607, 617 (“This Court does not read

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<sup>1</sup> Specifically, the composition of the Committee is as follows: “*Three members* shall be physician assistants appointed by the [Board] from a list of qualified individuals submitted by the Oklahoma Academy of Physician Assistants. *One member* shall be a physician appointed by the Board from its membership. *One member* shall be a physician appointed by the Board from a list of qualified individuals submitted by the Oklahoma State Medical Association and who is not a member of the Board. *One member* shall be a physician appointed by the State Board of Osteopathic Examiners from its membership. *One member* shall be a physician appointed by the State Board of Osteopathic Examiners from a list of qualified individuals submitted by the Oklahoma Osteopathic Association and who is not a member of said board.” 59 O.S.Supp.2016, § 519.3(A) (emphasis added).

<sup>2</sup> Our understanding is that there are three such programs in the State, which are run by (i) the University of Oklahoma Health Sciences Center; (ii) the University of Oklahoma – Tulsa, School of Community Medicine; and (iii) Oklahoma City University. Accordingly, when considering certain actions, the Committee expands from seven to ten members. 59 O.S.Supp.2016, § 519.3(F)(2).

exceptions into a statute nor may we impose requirements not mandated by the Legislature.”). Because the Legislature did not exclude directors from evaluating their former students, we can only infer that it intended the directors to evaluate the credentials and make a recommendation to the Board as to the licensure of *all* applicants.

Second, while State officers and employees must avoid conflicts of interest as proscribed by rules promulgated by the Ethics Commission, *see* 74 O.S.Supp.2016, Ch. 62, App. I, R. 4.4,<sup>3</sup> the scenario described does not appear to implicate any of the prohibitions of those rules. And even if it did, the interpretation and application of Ethics Commission rules falls within the purview of the Ethics Commission, not this office. A.G. Opin. 2013-1, at 13 n.2; *see also* OKLA. CONST. art 29, § 5.

Finally, in considering the Committee’s inclusion of program directors when evaluating and recommending candidates for licensure, it is important to keep in mind that the Committee has no independent decision-making authority. Rather, it is charged solely with “review[ing] and mak[ing] recommendations to the Board on all applications for licensure as a physician assistant.” 59 O.S.Supp.2016, § 519.3(F)(2).<sup>4</sup> The ultimate decision to grant or deny a license application lies *exclusively* with the Board. *See id.* §§ 519.2(5), 519.6(A). In theory, were the Board to abdicate its own decision-making responsibilities and essentially allow the Committee to “make decisions beyond [its] authority,” partiality concerns may arise. *See Johnson v. Bd. of Governors of Registered Dentists*, 1996 OK 41, ¶¶ 34, 36, 913 P.2d 1339, 1348 (finding that the Oklahoma Dental Board abdicated its statutory decision-making authority by allowing an individual board member who was an economic competitor of the Respondent to issue the Formal Complaint and set the hearing date). However, we have no reason to believe that is the case here.

Accordingly, directors of the State’s physician assistant training programs, who are acting in their statutory role as Committee members, may participate in reviewing the applications of students from the programs they oversee and make recommendations to the Board regarding the applicants’ licensure.

**B. Under the Act, the State Board of Medical Licensure and Supervision may not require a licensee to pay a fee to a private professional association for logging and reporting the licensee’s continuing medical education hours.**

In addition to the provisions described above, the Act further authorizes the Board to promulgate rules establishing fees for initial licensure of physician assistants, license renewal, late license renewal, application to practice, and disciplinary hearings. 59 O.S.2011, § 519.8(B). The Board has promulgated such fees in its fee schedule. OAC 435:1-1-7. For instance, the initial application

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<sup>3</sup> Rule 4.4 states in pertinent part that “a state officer or employee shall not use his or her State office (1) for his or her own private gain, (2) for the endorsement of any product, service or enterprise, (3) for the private gain of a family member or persons with whom the state officer or employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the state officer or employee is an officer or member, or (4) for the private gain of persons with whom the state officer or employee seeks employment or business relations.” 74 O.S.Supp.2016, Ch. 62, App. I, R. 4.4.

<sup>4</sup> Moreover, any single director of a physician assistant training program will be only one of ten Committee members to weigh in on such recommendations.

fee is \$150, the fee for license renewal is \$125, and the disciplinary hearing fee is the actual cost of the proceedings as determined by the Board. *Id.*

The Act also requires licensed physician assistants to complete twenty hours of continuing medical education (“CME”) annually in order to renew a license. Section 519.8(A) provides:

Licenses issued to physician assistants shall be renewed annually on a date determined by the State Board of Medical Licensure and Supervision. ***Each application for renewal shall document that the physician assistant has earned at least twenty (20) hours of continuing medical education during the preceding calendar year.***

59 O.S.2011, § 519.8(A) (emphasis added). The Board has promulgated rules for tracking licensees’ CME credits: “The CME hours shall be logged and reported to the Board on an annual basis by the Oklahoma Academy of Physician Assistants, Inc. ***The applicant shall bear the cost of this requirement.***” OAC 435:15-3-17(c) (emphasis added).

Thus, in order to renew a license, a physician assistant must complete twenty hours of CME and report the hours to the Oklahoma Academy of Physician Assistants, Inc. (“OAPA”), a private professional association.<sup>5</sup> OAC 435:15-3-17(c). OAPA then logs and reports the hours to the Board, a service for which the licensee is required to pay OAPA. *Id.* OAPA’s discretion to set its fee appears to be unconstrained by Board oversight, whether in the Act or in Board rules. As of this writing, our understanding is that OAPA members pay annual dues of \$125, but are not charged a fee for logging and reporting their CME hours. However, non-members are charged \$135 as the cost for logging and reporting CME hours. In either case, the licensee must separately pay to the Board the license renewal fee as promulgated in the Board’s fee schedule.

If the licensee does not use the OAPA’s service of logging and reporting CME hours and does not pay the OAPA fee, the Board will not renew the license. You have asked whether this requirement, as provided for in OAC 435:15-3-17(c), violates any principle of Oklahoma law. In order to answer your question, it is necessary to examine the source and nature of an administrative agency’s powers and duties.

### **1. State agencies may only exercise express or implied powers granted by statute.**

State agencies may only exercise powers granted by statute. *Boydston v. State*, 1954 OK 327, ¶19, 277 P.2d 138, 142. Agencies also have “such powers as are necessary for the due and efficient exercise of the powers expressly granted, or such as may be fairly implied from the statute granting the express powers.” *Marley v. Cannon*, 1980 OK 147, ¶10, 618 P.2d 401, 405 (citations omitted).

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<sup>5</sup> OAPA’s mission is “to secure and strengthen the Physician Assistant profession in Oklahoma through advocacy, promotion and continuing medical education.” Its goals include: “1. Financial growth and security for self-sufficiency and organizational development of OAPA. 2. Increase organizational capacity of OAPA. 3. Greater public and professional understanding of the role of Physician Assistants in the health care system. 4. Monitor and pursue legislation through advocacy and education that enables PAs to provide efficient patient care and maintain current status, rights and privileges. [and] 5. Offer quality continuing medical education.” Oklahoma Academy of Physician Assistants, Inc., *Mission Statement & Strategic Direction*, <http://www.okpa.org/about/mission-statement-strategic-direction/> (last visited August 25, 2017).

“However, an agency created by statute may only exercise the powers granted by statute and cannot expand those powers *by its own authority*.” *Id.* (emphasis added). “An administrative agency may not under the guise of its rule making power exceed the scope of its authority and act contrary to the statute which is the source of its authority.” *Adams v. Prof. Prac. Comm'n*, 1974 OK 88, ¶ 11, 524 P.2d 932, 934.

The Act grants to the Board the express authority to promulgate rules regarding license renewal of physician assistants including the manner in which CME hours shall be documented. *See* 59 O.S.Supp.2016, § 519.3(D); 59 O.S.2011 § 519.8(A). Likewise, the Board has exclusive authority to set a license renewal fee. 59 O.S.2011, § 519.8(B). However, we can find no authority in the Act, express or implied, permitting the Board to require licensees to pay *an additional fee* to a private professional association as a prerequisite to having their license renewed.

It is important to note that the Board issues licenses in at least fourteen categories of health care practice and implements six different legislative acts.<sup>6</sup> For all of those licenses *except physician assistants*, the Board logs the licensee’s CME hours itself and does not charge anything other than the normal Board renewal fee.<sup>7</sup> It is only physician assistants that must report CME hours to a private professional association and pay a fee to that association in order to renew a license. There is nothing in the Board’s various acts or rules to indicate that CME taken by physician assistants requires special reporting by a private entity. In fact, physician assistants are required to complete the same category of CME credit as licensees in other practice areas under the Board’s jurisdiction.<sup>8</sup> We see no reason to treat physician assistants differently with regard to logging and reporting their CME credit hours.

As a result, because the Board does not have specific express or implied authority to set a separate CME logging and reporting fee, the fee required by OAC 435:15-3-17(c) is void.

**2. Even if a separate CME logging and reporting fee were within the scope of the Board’s exclusive fee-setting authority, the Board has impermissibly delegated that authority to a private entity.**

Oklahoma courts and prior Attorney General Opinions have recognized the legal principle of *delegata potestas non potest delegari*, which has been interpreted to mean that “one to whom authority stands delegated may not, without specific empowerment, redelegate it to another.” *See*

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<sup>6</sup> For the various licenses, *see generally* OAC 435:1-1-7. The Board implements the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (59 O.S.2011, § 495), the Physician Assistant Act (59 O.S.Supp.2016, § 519.3), the Oklahoma Athletic Trainers Act (59 O.S.2011, § 528), the Registered Electrologist Act (59 O.S.2011, § 536.4), the Therapeutic Recreation Practice Act (59 O.S.2011, § 540.5), and the Radiologist Assistant Licensure Act (59 O.S.2011, § 541.3).

<sup>7</sup> *See* OAC 435:10-15-1 (Physicians and Surgeons); 435:15-3-17 (Physician Assistant); 435:20-9-2 (Physical Therapists and Assistants); 435:25-5-2 (Athletic Trainers); 435:30-1-5 (Occupational Therapists and Assistants); 435:35-1-10 (Dieticians); 435:40-1-9 (Registered Electrologists); 435:45-5-1 (Respiratory Care Practitioner); 435:50-5-3 (Podiatrists); 435:55-5-3 (Orthotists, Prosthetists and Registered Technicians and Assistants); 435:60-5-3 (Radiologist Assistants); 435:65-3-3 (Anesthesiologist Assistants); and 435:70-5-4 (Therapeutic Recreation).

<sup>8</sup> Physicians, physician assistants and anesthesiologist assistants must take Category I CME for at least part of their license renewal requirements. *See* OAC 435:10-15-1, 435:15-3-17, and 435:65-3-3, respectively.

A.G. Opin. 2007-24 at 165 (citing *Sullins v. Amer. Med. Response of Okla., Inc.*, 2001 OK 20, n.13, 23 P.3d 259, 267 n.13 (Opala, J., concurring)). As the Oklahoma Supreme Court stated in *Anderson v. Grand River Dam Authority*:

It is a general principle of law, expressed in the maxim ‘delegatus non potest delegare’, that a delegated power may not be further delegated by the person to whom such power is delegated and that in all cases of delegated authority, where personal trust or confidence is reposed in the agent and especially where the exercise and application of the power is made subject to his judgment or discretion, the authority is purely personal and cannot be delegated to another \* \* \*. ***A commission, charged by law with power to promulgate rules, cannot, in turn, delegate that power to another.***

1968 OK 143, ¶14, 446 P.2d 814, 818 (quoting 2 AM. JUR. 2D *Administrative Law* § 222 (1968)) (emphasis added).

However, in applying the principle, Oklahoma courts have distinguished ministerial functions and duties from those that are discretionary or require the exercise of judgment:

Administrative officers and bodies cannot alienate, surrender, or abridge their powers and duties, or delegate authority and functions which under the law may be exercised only by them; and, ***although they may delegate merely ministerial functions, in the absence of statute or organic act permitting it, they cannot delegate powers and functions which are discretionary or quasi-judicial in character, or which require the exercise of judgment.***

*Id.* at ¶15, 446 P.2d at 818 (quoting 73 C.J.S. *Public Administrative Bodies and Procedure* § 57) (emphasis added). *See also Van Horn Oil Co. v. Okla. Corp. Comm’n*, 1988 OK 42, ¶12, 753 P.2d 1359, 1363. As a result, while administrative officers and bodies may delegate ministerial duties, they cannot delegate powers and functions which are discretionary or require the exercise of judgment.

The case of *Anderson v. Grand River Dam Authority*, cited above, is particularly instructive on this point and relevant to the question at hand. In *Anderson*, the Grand River Dam Authority (“GRDA”) had unconditional authority to prescribe the “type, style, location and equipment of all wharves, docks and anchorages.” 1968 OK 143, ¶¶ 12-13, 446 P.2d at 817. GRDA promulgated a rule requiring an applicant for a permit to anchor a houseboat on Grand Lake to first obtain the consent of the “abutting landowner.” *Id.* at ¶ 3, 446 P.2d at 816. In other words, any person who owned land abutting the location where the applicant wished to anchor a houseboat could effectively veto the granting of the application. The Court held that the GRDA rule substituted the abutting landowner’s judgment for that of the GRDA. *Id.* at ¶ 13, 446 P.2d at 817-18. As a result, the rule was void as an unlawful redelegation of a delegated authority. *Id.* at ¶ 23, 446 P.2d at 819.

The Board has been exclusively delegated the duty of setting license fees, including license renewal fees for physician assistants. 59 O.S.2011, § 519.8(A). Setting such fees requires the exercise of judgment by the Board and therefore cannot be redelegated by the Board to another

entity. As a result, even if the CME logging and reporting fee created by OAC 435:15-3-17(c) were construed as coming within the scope of the Board's exclusive fee-setting authority, the rule would be void because the Board has impermissibly redelegated to OAPA its authority to determine the appropriate fee.

**It is therefore the Official Opinion of the Attorney General that:**

- 1. The Director of a physician assistant training program, sitting as a member of the Physician Assistant Advisory Committee pursuant to 59 O.S.Supp.2016, § 519.3(F)(2), may evaluate the application of a former student of that Director's program and make a recommendation to the State Board of Medical Licensure and Supervision as to whether the former student should be licensed.**
- 2. The Physician Assistant Act (59 O.S.2011 & Supp.2016, § 519.1-524) does not authorize the State Board of Medical Licensure and Supervision to charge or require payment of a fee for logging and reporting continuing medical education hours other than the license renewal fee provided for at 59 O.S.2011, § 519.8 (B).**
- 3. The State Board of Medical Licensure and Supervision has exclusive authority to set fees under the Physician Assistant Act (59 O.S.2011 & Supp.2016, § 519.1-524). Even if the Act could be construed as giving the Board implied authority to charge a separate fee for logging and reporting continuing medical education hours, the setting of such a fee involves the Board's discretion and therefore cannot be delegated to a private entity. *Anderson v. Grand River Dam Authority*, 1968 OK 143, ¶¶ 14-15, 446 P.2d 814, 818.**



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