



Arizona Medical Board

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FINAL MINUTES FOR REGULAR SESSION MEETING

Held on Monday, April 16, 2018

And on Tuesday, April 17, 2018

1740 W. Adams St., Board Room A • Phoenix, Arizona

Board Members

James M. Gillard, M.D., M.S., F.A.C.E.P., F.A.A.E.M., Chair

R. Screven Farmer, M.D., Vice-Chair

Jodi A. Bain, Esq., Secretary

Bruce A. Bethancourt, M.D., F.A.C.P.

Teresa L. Connolly, D.N.P., R.N., N.E.A.-B.C.

Gary R. Figge, M.D.

Pamela E. Jones

Lois E. Krahn, M.D.

Edward G. Paul, M.D.

Wanda J. Salter, R.N.

Monday, April 16, 2018

GENERAL BUSINESS

A. CALL TO ORDER

Dr. Gillard called the meeting to order at 8:12 a.m.

B. ROLL CALL

The following Board members were present: Dr. Gillard, Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Paul and Ms. Salter.

The following Board member was absent: Dr. Krahn.

ALSO PRESENT

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

C. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA

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

D. EXECUTIVE DIRECTOR'S REPORT

- Update on Auditor General Sunset Review
Ms. McSorley reported that the Audit review is over and Board staff have implemented the Auditor's two recommendations.
- Update on Workflow from Investigations to Board's Agenda

Ms. McSorley reported that the cases are moving forward through the Board's investigation process. There are currently 532 open investigations, 31 cases scheduled for staff investigative review committee (SIRC) and 14 cases on the SIRC Checklist.

Ms. Bain noted that the Board staff works with various parties involved in the investigation and that each case moves at a different timeline.

- **Update on Communicating Requirements of the Opioid Act and Related Developments**
Ms. McSorley reported that the opioid act is being implemented. All the regulatory agencies continue to meet to discuss changes and solutions. Ms. McSorley commented that it is the Board's role to provide the information to licensees.
- **Legislative Update**
Ms. McSorley reported that once Budget hearings are finished, the Board will create a budget for the next fiscal year.
- **Update on Board Appointments**
Ms. McSorley reported that the Governor's office continues to work towards Board appointments as there is a concern regarding maintaining quorum.
- **Discussion Regarding Scheduling an Offsite Meeting in June and Possible Topics**
Ms. McSorley reported that the Offsite Meeting will be on June 13, 2018 and she welcomes topics from Board members.

E. CHAIR'S REPORT

- **Federation of State Medical Boards 2018 Annual Meeting**

Dr. Gillard reported that he will be attending the FSMB annual meeting and will provide a report to the Board.

F. LEGAL ADVISOR'S REPORT

No report was provided.

G. APPROVAL OF MINUTES

MOTION: Ms. Jones moved to approve the minutes for the February 13-14, 2018 Regular Session, Including Executive Session and the March 8, 2018 Special Teleconference.

SECOND: Dr. Bethancourt.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

LEGAL MATTERS

H. FORMAL INTERVIEWS

1. MD-17-0627A, WILLIAM B. DABNEY, M.D., LIC. #5796
Dr. Dabney was present with counsel Steve Myers, Esq..

Board staff summarized that Board initiated this case after receiving a complaint from an office manager alleging that Dr. Dabney was terminated by his employer after a patient complained of inappropriate touching during an appointment. Dr. Dabney entered into an Interim Consent Agreement for Practice Restriction, effective November 2, 2017. Dr. Dabney subsequently submitted proof of CME completion in the PACE boundaries program, which credited him 39.5 Category I CME hours. SIRC also noted that Dr. Dabney completed the ten psychotherapy sessions and that the Board received correspondence from the psychologist noting that, in his opinion, Dr. Dabney is safe to practice. As a result, Dr. Dabney's Interim Consent Agreement for Practice Restriction was vacated, effective January 30, 2018.

In opening, Dr. Dabney apologized for his actions. Dr. Dabney commented that this experience has allowed him to evaluate his past behavior and that he has since learned of appropriate professional and patient boundaries moving forward.

Mr. Myers noted that Dr. Dabney's boundaries violations were not sexually motivated. Mr. Myers discussed Dr. Dabney's remedial efforts during the course of the investigation, and requested dismissal of the case or at most the issuance of an advisory letter.

MOTION: Dr. Figge moved for the Board to enter into Executive Session pursuant to A.R.S. § 38-431.03(A)(3).

SECOND: Ms. Bain.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Board entered into Executive Session at 9:49 a.m.

The Board returned to Open Session at 10:00 a.m.

No legal action was taken by the Board during Executive Session.

During questioning, Dr. Dabney explained his understanding of the two situations and stated that he intends to have a chaperone present for female exams and will use his judgement for male patients going forward.

In closing, Mr. Myers stated that the physician has been provided the opportunity to be rehabilitated.

During deliberation, Dr. Figge commented that although there may not have been sexual intent by the physician, his actions can be misinterpreted by the patients and Dr. Figge stated that in his opinion, a violation occurred.

MOTION: Dr. Figge moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(z)(ii) for reasons as stated by SIRC

SECOND: Dr. Paul.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

Dr. Figge opined that although the physician has taken steps to rehabilitate, the case does rise to the level of discipline. Dr. Figge recommended the issuance of a Letter of Reprimand and opined that probation for a chaperone may not be needed.

MOTION: Dr. Figge moved for a draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand.

SECOND: Dr. Connolly.

Board members discussed the need to require a mandated chaperone since the boundary issues identified were not motivated by sexual intent.

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Gillard, Dr. Bethancourt, Dr. Connolly, Dr. Paul and Ms. Salter. The following Board members voted against the motion: Dr. Farmer, Ms. Bain and Ms. Jones. The following Board member was absent: Dr. Krahn.

VOTE: 6-yay, 3-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. THIS ITEM HAS BEEN MOVED TO ITEM M. NUMBER 4.

3. MD-17-0746A, SAM E. SATO, M.D., LIC. #14758

Dr. Sato was present with counsel James Kaucher, Esq. Dr. Farmer rescued from this case.

Board staff summarized that the Board initiated the case after receiving notification of Dr. Sato voluntarily surrendering his clinical privileges while under, or to avoid, investigation relating to professional competence or conduct. Board staff obtained the medical records of three patients where the wrong eye was operated on or the procedure was approached opposite from what was intended. The MC identified deviations from the standard of care with regard to all three cases.

In opening, Dr. Sato acknowledged the errors that occurred and reported that he has taken steps to ensure that this does not happen again. Dr. Sato noted that a corrective surgery was not required for patients one and two. With regards to patient three, although the initial surgery was not planned it ultimately was required. Dr. Sato noted that at his current place of employment there are policies and procedures in place to ensure the correct surgery is performed.

Mr. Kraucher stated that Dr. Sato has submitted Dr. Sato's surgical checklist for the Board's review.

During questioning, Dr. Sato discussed the care provided to the three patients and explained the time out procedure checklist that he utilized.

In closing, Mr. Kaucher commented that there was no patient harm in this case.

Dr. Sato explained his voluntary surrender of privileges at the surgery center.

Board staff confirmed the timeframe of events and the requirements for a correct surgery.

Dr. Bethancourt noted that unprofessional conduct includes potential harm not just actual harm to a patient. Dr. Bethancourt opined that if this practice continues there is potential harm for a wrong procedure to be performed. Dr. Bethancourt found it concerning that his time out documentation is unclear and that documentation must clearly identify discussion and time of events.

MOTION: Dr. Bethancourt moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(q) for reasons as stated by SIRC.

SECOND: Ms. Bain.

VOTE: 8-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.

MOTION PASSED.

MOTION: Dr. Bethancourt moved for a draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand.

SECOND: Dr. Paul.

Ms. Bain commented that language utilized in medical records should be consistent and understood by peers.

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Gillard, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Paul and Ms. Salter. The following Board member was recused: Dr. Farmer. The following Board member was absent: Dr. Krahn.

VOTE: 8-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.

MOTION PASSED.

CONSENT AGENDA

I. CASES RECOMMENDED FOR DISMISSAL

1. MD-17-0519A, LYNN M. BIANCHI, M.D., LIC. #23311
Dr. Farmer recused from this case.

MOTION: Dr. Paul moved to dismiss.

SECOND: Dr. Figge.

VOTE: 8-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.

MOTION PASSED.

2. MD-17-0662B, JOHN W. DURHAM, M.D., LIC. #21077
G.M., B.G. and A.S. addressed the Board during the Public Statements portion of the meeting.

Dr. Gillard commented that a torn ligament that tucks under does require surgery however there is an argument in literature that a more conservative approach could have been taken.

Board staff summarized that this was a case of choosing between a conservative approach versus an operative repair where there was a communication problem between the family and physician. A second hand surgeon consult was obtained confirming the tear.

Dr. Gillard noted that there was a misreading of the MRI but a surgical repair is required in this type of injury.

Board staff confirmed that the MC did not find a deviation in the standard of care by the physician but there was a poor outcome.

Board members agreed that the MRI image is inadequate and that further investigation may be required.

Board staff confirmed that the radiologist's case was dismissed and the complainant has filed an appeal.

MOTION: Figge moved to return the case for further investigation to obtain a new quality of care review by a second Medical Consultant.

SECOND: Bethancourt.

Dr. Paul opined that although the quality of the MRI was poor, the surgery may have been performed anyway. Ms. Bain requested that the B case track with the A case and to be heard on the same Agenda.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

J. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Dr. Figge moved to issue an Advisory Letter in item numbers 1-3, 6, 8 and 9.

SECOND: Dr. Bethancourt.

VOTE: 8-yay, 0-nay, 0-abstain, 0(1 recusal in items 2 and 5), 1-absent.

MOTION PASSED.

1. MD-17-0707A, HOLLY E. ROONEY, M.D., LIC. #28273

RESOLUTION: Issue an Advisory Letter for attesting to have queried the CSPMP database for patients receiving medical marijuana certifications when she did not. There is insufficient evidence to support disciplinary action.

2. MD-17-0608A, BYUNG Y. KIM, M.D., LIC. #29393

Dr. Farmer recused from this case.

RESOLUTION: Issue an Advisory Letter for inadequate documentation. There is insufficient evidence to support disciplinary action.

3. MD-17-0795A, CHARLES MATLIN, M.D., LIC. #13975

RESOLUTION: Issue an Advisory Letter for repairing a bladder injury with non-absorbable suture and for inadequate medical records. There is insufficient evidence to support disciplinary action.

4. MD-17-0474A, RAMAN KANSAL, M.D., LIC. #49546

Dr. Paul summarized that this is a case where a radiologist failed to identify healing rib fractures in an infant and the infant was sent home where further child abuse resulted in patient harm. Dr. Paul noted that three additional radiologists who were not familiar with the outcome of this case also failed to identify the rib fractures.

MOTION: Dr. Paul moved to dismiss.

SECOND: Dr. Farmer.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

5. MD-17-0557A, JOSE L. Z. DE OCAMPO, M.D., LIC. #35486

Ms. Jones recused from this case.

Dr. Farmer summarized that there was a medication error that was caught and corrected by the licensee. The licensee apologized for the error and has since made changes to ensure it does not occur again. Dr. Gillard noted that there was no patient harm.

MOTION: Dr. Farmer moved to dismiss.

SECOND: Ms. Bain.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

6. MD-17-0604A, GARY L. WOOD, M.D., LIC. #27981

RESOLUTION: Issue an Advisory Letter for failure to carry out an ultrasound after a diagnostic mammogram and ultrasound were ordered for a palpable left breast mass in an 84 year-old male with a positive family history for breast cancer. There is insufficient evidence to support disciplinary action.

7. MD-17-0609A, HILARIO JUAREZ, M.D., LIC. #12148

Board staff summarized that the case was initiated after receiving a complaint from an individual that requested confidentiality, alleging that Dr. Juarez left three foreign objects in separate patients in the last six months. This case was reviewed by the MC who found that Dr. Juarez deviated from the standard of care for failure to retrieve the remnant stomach during a conversion from gastric bypass to sleeve gastrectomy necessitating immediate repeat surgery to remove the specimen. There was no patient harm and the patient fully recovered.

MOTION: Dr. Farmer moved to issue an Advisory Letter for failure to recognize a foreign body was not removed at the time of the initial procedure. There is insufficient evidence to support disciplinary action.

SECOND: Ms. Salter.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

8. MD-17-0870A, CYNTHIA C. GOLDBERG, M.D., LIC. #23081

MOTION: Dr. Bethancourt moved to reopen item number 8.

SECOND: Dr. Paul.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

Dr. Bethancourt summarized that this complaint alleged failure to perform bilateral tubal ligation following cesarean section delivery of a third child with subsequent fourth pregnancy and delivery of healthy child.

Board staff commented that there was no time out because a tubal ligation was not elected to be done.

Ms. Bain noted that in the licensee's response that the patient was unsure if she was going to have a tubal ligation or if the husband would have vasectomy which could result in the disconnect between what was said and done.

MOTION: Dr. Bethancourt moved to issue an Advisory Letter for failure to carry out the expected tubal ligation and for inadequate 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.

SECOND: Ms. Salter.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

9. MD-17-0667A, DAVID G. STEWART, M.D., LIC. #13560

RESOLUTION: Issue an Advisory Letter for failure to make a referral and document recommendations for evaluation of an abnormal EKG with a subsequent cerebral vascular accident event. There is insufficient evidence to support disciplinary action.

K. CASES RECOMMENDED FOR ADVISORY LETTERS WITH NON-DISCIPLINARY CONTINUING MEDICAL EDUCATION ORDERS

1. MD-17-0469A, HENRY J. SCHULTE, M.D., LIC. #12400

MOTION: Dr. Figge moved to Issue an Advisory Letter and Order for Non-Disciplinary CME for continued prescription of alprazolam in a noncompliant patient with an active substance use disorder, for failure to obtain a UDS in a patient possibly on stimulants with possible worsening paranoia prior to initiating antipsychotic medications, and for inadequate medical records. There is insufficient evidence to support disciplinary action. Within six months, complete no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding medical recordkeeping. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Bethancourt.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. MD-17-0207A, KYLENE A. KENT, M.D., LIC. #42078

Dr. Gillard summarized that there was a malpractice settlement regarding Dr. Kent's alleged failure to diagnose torsion of small bowel resulting in delay of treatment, septic shock, and patient death. The physician did consult a surgeon in the ER and had completed a full workup before discharge and that this may be a case of hindsight.

Board staff summarized the time of events for SW's treatment, symptoms, exam and lab results which were not abnormal. The general surgeon on call did not opine that admission was need and recommended that the patient follow up with a gastric bypass surgeon. The MC found that Dr. Kent deviated from the standard of care for failure to diagnose mesenteric ischemia resulting in the death of the patient.

Dr. Gillard noted that although there was patient harm due to the diagnosis being missed on two previous examinations and opined that CME may not be needed as this was a rare occurrence.

MOTION: Dr. Figge moved to issue an Advisory Letter for failure to diagnose mesenteric ischemia resulting in the death of the patient. There is insufficient evidence to support disciplinary action.

SECOND: Dr. Paul.

Dr. Figge commented that it is not uncommon for general surgeons to recommend follow-up with a specialist.

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

MOTION PASSED.

L. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

MOTION: Ms. Bain moved to uphold the Executive Director's dismissal in item numbers 2-5.

SECOND: Dr. Bethancourt.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

1. MD-17-0367A, JULIA A. BARNETT, M.D., LIC. #45569

M.C. addressed the Board during the Public Statements portion of the meeting.

Dr. Farmer noted the MC's report found no deviation by Dr. Barnett and in fact it appeared that Dr. Barnett was the only physician that brought order in the situation by

ordering the angiogram. Dr. Farmer opined that Dr. Barnett met the standard of care and supports the dismissal.

MOTION: Dr. Farmer moved to uphold the dismissal.

SECOND: Dr. Figge.

Dr. Figge commented that this is a system issue in the Department of Corrections and not a standard of care issue.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. MD-17-1208B, MICHAEL O. ADKINS, M.D., LIC. #16219

Dr. Farmer disclosed that he knows Dr. Adkins but it would not affect his ability to adjudicate the case.

RESOLUTION: Dismissal upheld.

3. MD-17-0757A, MITCHELL R. HUMPHREYS, M.D., LIC. #32284

RESOLUTION: Dismissal upheld.

4. MD-16-1443A, ANTHONY A. SMITH, M.D., LIC. #23398

RESOLUTION: Dismissal upheld.

5. MD-17-0451B, WENDY E. MCCURDY, M.D., LIC. #24139

H.O. addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Dismissal upheld.

M. PROPOSED CONSENT AGREEMENTS (Disciplinary)

MOTION: Dr. Figge moved to accept the proposed Consent Agreement in item numbers 1 and 3-5.

SECOND: Dr. Paul.

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Gillard, Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Paul and Ms. Salter. The following Board member was absent: Dr. Krahn.

VOTE: 9-yay, 0-nay, 0-abstain, 0 (1 recusal in item number 4)-recuse, 1-absent.

MOTION PASSED.

1. MD-17-0398A, USMAN C. RAMZAN, M.D., LIC. #41233

RESOLUTION: Accept the proposed Consent Agreement for Probation for a period of five years with the requirement that the physician remain in compliance with the Connecticut Board's Order with quarterly reports to the Board. Once the licensee has complied with the terms of the Board's Order, he may petition the Board to request that the Probation be terminated. The request for Probation termination must be accompanied by documentation demonstrating that the Connecticut Board's Order has been satisfied and terminated. Should the licensee relocate to Arizona, he must enroll in the Board's Physician Health Program with a retroactive date of participation of December 19, 2017. The physician shall be required to notify the Board's Executive Director in writing at least thirty days prior to the relocation.

2. MD-17-1062A, ROBERT A. YOHO, M.D., LIC. #30990

Board staff confirmed that the licensees' license has expired and that to practice medicine in the State of Arizona again he would need to reapply.

MOTION: Dr. Farmer moved to accept the proposed Consent Agreement for a Decree of Censure.

SECOND: Ms. Jones.

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Gillard, Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Paul and Ms. Salter. The following Board member was absent: Dr. Krahn.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

3. MD-17-0621A, THOMAS R. HANSEN, M.D., LIC. #18493
RESOLUTION: Accept the proposed Consent Agreement for Surrender of License.
4. MD-17-0371A, MARK G. WEBB, M.D., LIC. #19868
Ms. Salter recused from this case.

RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand and Probation. Amend the Board's Order in case number MD-14-0019A to extend the length of the Probation and require Dr. Webb to enroll and participate in the Medical Record Keeping Seminar and Follow-up Program offered by CPEP, at his expense. Prior to the termination of Probation, Respondent must request in writing release from the terms of this Order.

5. MD-17-0777A, DAVID LANDAU, M.D., LIC. #40941
RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand.

N. PROPOSED CONSENT AGREEMENTS (Non-Disciplinary)

MOTION: Dr. Figge moved to accept the proposed Consent Agreement (non-disciplinary) in item numbers 1 and 2.

SECOND: Dr. Farmer.

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

MOTION PASSED.

1. MD-18-0183A, GARY B. ZOELLNER, M.D., LIC. #30437
RESOLUTION: Accept the proposed Consent Agreement (non-disciplinary) for Practice Limitation.
2. MD-17-0547A, VICTOR R. HENDERSON, M.D., LIC. #26987
RESOLUTION: Accept the proposed Consent Agreement (non-disciplinary) for Practice Limitation.

O. LICENSE APPLICATIONS

i. APPROVE OR DENY LICENSE APPLICATION

MOTION: Ms. Jones moved to grant license in item numbers 2-4.

SECOND: Dr. Bethancourt.

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

MOTION PASSED.

1. MD-18-0008A, BENJAMIN S. WILKS, M.D., LIC. #N/A
Board staff confirmed that the physician is still involved in an IV therapy practice in Colorado.

Board members expressed concern regarding the physician's role in the Colorado IV therapy practice and that it may be beneficial to invite the licensee in for a formal interview. Dr. Gillard noted that the licensee's Colorado action was not in relation to IV therapy. Dr. Connolly explained nurse initiatives regarding standing orders.

MOTION: Ms. Jones moved to invite the applicant to appear before the Board for a Formal Licensing Interview.

SECOND: Ms. Bain.

Dr. Gillard noted that the physician does meet the requirements for licensure. Dr. Farmer commented that the physician must be aware of Arizona's statutes and the differences between Arizona and Colorado that may affect his practice.

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

MOTION PASSED.

2. MD-17-1197A, MUFUTAU O. AKINBILE, M.D., LIC. #N/A
RESOLUTION: Grant the license.
3. MD-18-0114A, JOHN V. WATKINS, M.D., LIC. #N/A
RESOLUTION: Grant the license.
4. MD-17-0831A, GEORGE B. ELVOVE, M.D., LIC. #N/A

RESOLUTION: Grant the license.

5. MD-17-1078A, MICHAEL K. MOORE, M.D., LIC. #N/A

Ms. Jones noted that the Utah disciplinary action has been completed however; the licensee is still under probation through the court for a misdemeanor.

Board staff confirmed that prior employees filed a complaint against him after termination.

MOTION: Ms. Jones moved to grant the license.

SECOND: Dr. Paul.

VOTE: 8-yay, 0-nay, 1-abstain, 0-recuse, 1-absent.

MOTION PASSED.

ii. **REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING RENEWAL APPLICATION AND CONSIDERATION OF RECOMMENDED DISMISSAL OF PENDING INVESTIGATION**

1. MD-17-0902A, WHITNEY A. S. JAMES, M.D., LIC. #50744

Dr. Gillard summarized that the licensee was dismissed from her residency program but no statute was violated.

Board staff commented that the licensee was put on probation and then dismissed during her 5th and 6th year of residency.

Dr. Gillard noted that the licensee has passed the USMLE and is appealing her termination.

MOTION: Dr. Figge moved to return the case for further investigation to obtain a status update on the applicant's appeal.

SECOND: Ms. Bain.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. MD-18-0077A, DONALD E. NOVICKI, M.D., LIC. #21486

MOTION: Dr. Figge moved to grant the license renewal and dismiss the pending investigation.

SECOND: Ms. Salter.

VOTE: 8-yay, 1-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

iii. **REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING RENEWAL APPLICATION AND PROPOSED CONSENT AGREEMENT (Non-Disciplinary)**

1. MD-17-1171A, HERBERT R. JALOWSKY, M.D., LIC. #13266

Dr. Figge knows the licensee but it would not affect his ability to adjudicate the case.

MOTION: Ms. Bain moved for the Board to enter into Executive Session pursuant to A.R.S. § 38-431.03(A)(3).

SECOND: Ms. Jones.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Board entered into Executive Session at 11:58 a.m.

The Board returned to Open Session at 12:07 p.m.

No legal action was taken by the Board during Executive Session.

Dr. Gillard summarized that due to health related issues Dr. Jalowsky has signed a consent agreement for a practice limitation.

MOTION: Ms. Jones moved to grant the license renewal and accept the proposed Consent Agreement (non-disciplinary) for Practice Limitation.

SECOND: Dr. Bethancourt.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

iv. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING LICENSURE BY ENDORSEMENT PURSUANT TO A.R.S. § 32-1426(B) AND R4-16-201(F)

MOTION: Dr. Paul moved to grant the license in item numbers 1 and 2.

SECOND: Dr. Farmer.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

1. SYDNEY L. ABRAMSON, M.D., LIC. #N/A

RESOLUTION: Grant the license.

2. CARL R. TAHN, M.D., LIC. #N/A

RESOLUTION: Grant the license.

v. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING APPLICANT'S REQUEST FOR WAIVER OF DOCUMENTATION REQUIREMENT

1. JOSE A. ALFANO, M.D., LIC. #N/A

Dr. Gillard summarized that since the records required are no longer available to meet the primary source requirement the applicant has requested a waiver.

MOTION: Dr. Figge moved to grant the request for waiver of documentation requirement and grant the license.

SECOND: Dr. Paul

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

vi. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING LICENSE REACTIVATION

1. MD-18-0185A, C. ROBERT WALL, M.D., LIC. #19342

Dr. Gillard summarized that the licensee is compliant with CME and has lifetime Board certifications in radiology and nuclear medicine.

MOTION: Dr. Figge moved to reactivate the license.

SECOND: Dr. Bethancourt.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

vii. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING RENEWAL APPLICATION AND RECOMMENDED ADVISORY LETTER

1. MD-16-1058A, PATRICIA J. GROGAN, M.D., LIC. #19825

Dr. Gillard summarized that the licensee failed to timely report misdemeanors to the Board.

MOTION: Dr. Figge moved to grant the license renewal and issue an Advisory Letter for failure to timely report prior reportable misdemeanors to the Board as required by statute. There is insufficient evidence to support disciplinary action.

SECOND: Ms. Salter.

**VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.**

*****END OF CONSENT AGENDA*****

ACTION ON CASE(S)

P. APPROVAL OF DRAFT FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

1. MD-16-0589A, JOHN J. SEARS, M.D., LIC. #27392

Attorney Scott Hergenroether addressed the Board during the Public Statements portion of the meeting.

MOTION: Dr. Figge moved for the Board to enter into Executive Session pursuant to A.R.S. § 38-431.03(A)(3).

SECOND: Ms. Bain.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Board entered into Executive Session at 12:16 p.m.

The Board returned to Open Session at 12:25 p.m.

No legal action was taken by the Board during Executive Session.

Dr. Gillard noted that counsel requested changes to the draft Findings of Fact in the Public Statements.

Ms. Smith noted that the Board voted after the formal interview the Findings of Fact for unprofessional conduct for reasons as stated by SIRC as a result of the investigation. The proper procedure would be to request a rehearing or review.

MOTION: Ms. Bain moved to approve the draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and Probation.

SECOND: Dr. Paul

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Gillard, Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Paul and Ms. Salter. The following Board member was absent: Dr. Krahn.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. MD-16-1495A, MOHAMED H. EL-GASIM, M.D., LIC. #36344

MOTION: Ms. Salter moved to approve the draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand.

SECOND: Dr. Bethancourt.

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Gillard, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Paul and Ms. Salter. The following Board member was absent: Dr. Krahn and Dr. Farmer.

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

MOTION PASSED.

3. MD-15-1067A, MD-15-1170A, KENNETH M. FISHER, M.D., LIC. #12762

MOTION: Ms. Jones moved to approve the draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure and Probation with Practice Restriction.

SECOND: Dr. Paul.

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Gillard, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge,

Ms. Jones, Dr. Paul and Ms. Salter. The following Board member was absent: Dr. Krahn and Dr. Farmer.

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

MOTION PASSED.

OTHER BUSINESS

Q. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING POTENTIAL CORRECTIVE ACTION FOR PATIENT MEDICAL RECORDS

1. MD-18-0093A, ROBERT E. SECAUR, M.D., LIC. #30213

MOTION: Ms. Bain moved for the Board to enter into Executive Session pursuant to A.R.S. § 38-431.03(A)(3).

SECOND: Dr. Figge.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Board entered into Executive Session at 8:39 a.m.

The Board returned to Open Session at 8:55 a.m.

No legal action was taken by the Board during Executive Session.

MOTION: Dr. Figge moved to direct the Attorney General's Office to proceed at their discretion with an action seeking an injunctive relief compelling Dr. Secaur to secure, store and/or transfer medical records for his patients

SECOND: Ms. Bain.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

R. GENERAL CALL TO THE PUBLIC

No individuals addressed the Board during the General Call to the Public.

S. ADJOURNMENT

MOTION: Dr. Figge moved to adjourn the meeting.

SECOND: Dr. Bethancourt.

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

MOTION PASSED.

The meeting adjourned at 1:32 p.m.

Tuesday, April 17, 2018

GENERAL BUSINESS

A. CALL TO ORDER

Dr. Gillard called the meeting to order at 8:04 a.m.

B. ROLL CALL

The following Board members were present: Dr. Gillard, Dr. Farmer, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Krahn, Dr. Paul and Ms. Salter.

The following Board members were absent: Ms. Bain and Dr. Bethancourt.

ALSO PRESENT

Present among Board staff include: Carrie Smith, Assistant Attorney General ("AAG"); Anne Froedge, AAG; Elizabeth Campbell, AAG; Patricia E. McSorley, Executive Director; Kristina Fredericksen, Deputy Director; William Wolf, M.D., Chief Medical Consultant; Andrea Cisneros, Staff Investigational Review Committee ("SIRC") Coordinator; Raquel Rivera, Investigations Manager; Mary Bober, Board Operations Manager; and Michelle Robles, Board Coordinator.

C. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA

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

LEGAL MATTERS

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

1. MD-17-0137A, JEFF CRAWFORD, M.D., LIC. #18695

Dr. Crawford was present without counsel. AAG Elizabeth Campbell was present to provide Independent Legal Advice to the Board.

AAG Froedge, on behalf of the State, requested revocation of Dr. Crawford's Arizona Medical License. Ms. Froedge noted that revocation is different from the Administrative Law Judge's (ALJ) recommendation. AAG Froedge summarized that this is an overprescribing case where Dr. Crawford prescribed controlled substances without justification, provided early refills and did not query the CSPMP. For example, one patient was hospitalized for detoxification and Dr. Crawford did not follow-up and obtain the hospital records but, instead, continued to prescribe controlled substances to the patient. AAG Froedge stated that Dr. Crawford lacked training in prescribing control substances and at one point Board staff offered a Practice Restriction until the physician could obtain CME to remediate the situation. AAG Froedge stated that the issue is Dr. Crawford's complete lack of cooperation and defiance of the Board's Orders throughout the investigation. The Board issued a Summary Practice Restriction prohibiting Dr. Crawford from prescribing; however Dr. Crawford continued to prescribe, violating the board's order. The Board then summarily suspended Dr. Crawford's license, yet he continued to prescribe. The ALJ quoted directly from Dr. Crawford's letter stating he could not and would not comply with the Board's order. It was only at the hearing that Dr. Crawford was contrite and agreed to comply with the Board's order. AAG Foedge stated that the State is requesting revocation as Dr. Crawford's non-compliance has proven that the Board is not able to regulate his conduct. The State's motion requests minor modifications in the Findings of Fact and to correct typographical errors in the Conclusions of Law. AAG Froedge requested that the Board grant the State's motion and adopt the State's Findings of Fact and Conclusions of Law.

Dr. Crawford stated that he only uses handwritten medical records and does not utilize electronic records. Dr. Crawford acknowledged that he did not follow the State's new standards for prescribing controlled substances. Dr. Crawford stated that the 127 patients

he treats for chronic pain management have been on opioids for many years and he rarely screened for whether or not his patients have a history of using drugs. Dr. Crawford stated that he agreed with the Board's findings and is willing to modify his practice as the Board deems necessary.

AAG Froedge stated that this case goes beyond a documentation issue and revolves around steps that were not taken to ensure the safety of the patient, non-compliance with the investigation and the Board orders. AAG Froedge reiterated that Dr. Crawford's behaviors prove that he is unwilling to be regulated by the Board.

MOTION: Dr. Paul moved to adopt the ALJ's recommended Findings of Fact with modifications as recommended by the State.

SECOND: Dr. Krahn.

Dr. Krahn expressed concern that Dr. Crawford did not find the Board's responsibility to regulate and protect public safety as an important aspect of this case.

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

MOTION PASSED.

MOTION: Dr. Figge moved to adopt the ALJ's recommended Conclusions of Law with modifications as recommended by the State.

SECOND: Ms. Salter.

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

MOTION PASSED.

MOTION: Dr. Krahn moved to reject the ALJ's recommended Order, and issue an Order for License Revocation.

SECOND: Dr. Connolly.

Dr. Figge commented that the Board's purpose is to protect the public and when a physician proves to be unregulatable the Board must take appropriate action.

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Gillard, Dr. Farmer, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Krahn, Dr. Paul and Ms. Salter. The following Board members were absent: Ms. Bain and Dr. Bethancourt.

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

MOTION PASSED.

2. MD-16-0992A, MD-17-1152A, GREGORY J. PORTER, M.D., LIC. #14879

Dr. Porter was present without counsel. Dr. Gillard recused from this case. G.S. addressed the Board during the Public Statements portion of the meeting. AAG Elizabeth Campbell was present to provide Independent Legal Advice to the Board.

AAG Froedge, on behalf of the State, reported that this case went to hearing and the ALJ recommended revocation of Dr. Porter's medical license. At the hearing, Dr. Porter testified that this patient did not need the amount of opioid medication that she was on and he attempted to reduce the medication. Although there were errors in Dr. Porter's medication changes, the patient was non-compliant and had comorbidities. Ms. Froedge stated that the ALJ recommended revocation based on her finding that Dr. Porter refused to take responsibility. Additionally, there was concern for his ability to be regulated as Dr. Porter continued to prescribe after being restricted by the Board. AAG Froedge requested that the Board adopt the ALJ's recommendation for revocation with some minor modification for typographical errors.

Dr. Porter summarized that JC had comorbidities and was not compliant with her thyroid treatment. Dr. Porter explained that he adjusted her medications after he examined her thoroughly on both visits. Dr. Porter opined that she did not require opiates. Dr. Porter agreed that in retrospect he should not have prescribed ten milligrams of methadone as needed and unfortunately the patient was found deceased after a methadone overdose. Dr. Porter agreed that he should have referred her to a pain specialist. Dr. Porter

explained his reasoning behind prescribing pain medication despite the Board's restriction and in retrospect should have referred the patients to the emergency room.

AAG Froedge commented that Dr. Porter required more information about the patient before making medication changes in this case and that the Board's practice restriction was very clear and in effect immediately.

Dr. Porter commented that the patient never informed him that she had sleep apnea and that he cannot be responsible for the patient withholding the information. Dr. Porter requested that the Board not revoke his license.

MOTION: Ms. Jones moved to adopt the ALJ's recommended Findings of Fact with the modification as recommended by the State.

SECOND: Dr. Krahn.

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

MOTION PASSED.

MOTION: Dr. Figge moved to adopt the ALJ's recommended Conclusions of Law with modification as recommended by the State.

SECOND: Dr. Paul.

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

MOTION PASSED.

MOTION: Dr. Connolly moved to reject the ALJ's recommend Order for License Revocation and issue an Order for a Letter of Reprimand and Probation with Practice Restriction prohibiting the physician from prescribing controlled substances for so long as the physician holds an Arizona Medical license. Board staff to periodically review the Controlled Substance Prescription Monitoring Program to monitor the physician's compliance with the Board Order.

MOTION: Dr. Figge moved for the Board to enter into Executive Session pursuant to A.R.S. § 38-431.03(A)(3).

SECOND: Ms. Jones

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

MOTION PASSED.

The Board entered into Executive Session at 8:43 a.m.

The Board returned to Open Session at 8:54 a.m.

No legal action was taken by the Board during Executive Session.

Ms. Jones expressed concern that the physician continues to not accept responsibility for the patient's death as proven in his statements today. Dr. Figge expressed concern that regardless of intent the physician has proven he is not able to be regulated by the Board. Dr. Krahn noted that the CSPMP will only inform the Board of controlled substance patterns. Board members discussed prohibiting the licensee from prescribing all medications as medications other than controlled substances can be dangerous. Dr. Figge noted that prohibiting the licensee's ability to prescribe all medications is essentially revoking the license. Dr. Farmer commented that there were egregious errors in this case with concerns of regulability.

Dr. Krahn withdrew her second from the motion.

There was no seconder therefore the motion failed.

MOTION: Dr. Figge moved to adopt the ALJ's recommended Order for License Revocation.

SECOND: Dr. Paul.

Dr. Figge reiterated that the Board's purpose is to protect the public and when a physician proves to be unregulatable the Board must take appropriate action.

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Farmer, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Krahn, Dr.

Paul and Ms. Salter. The following Board member was recused: Dr. Gillard. The following Board members were absent: Ms. Bain and Dr. Bethancourt.
VOTE: 7-yay, 0-nay, 0-abstain, 1recuse, 2-absent.
MOTION PASSED.

E. REVIEW, CONSIDERATION AND POSSIBLE ACTION ON RESPONDENT'S REQUEST FOR NON-DISCIPLINARY RESOLUTION/DISMISSAL OF CASE CURRENTLY PENDING FORMAL HEARING AND IF RESPONDENT'S REQUEST FOR ALTERNATIVE ACTION IS GRANTED RESCIND REFERRAL TO FORMAL HEARING

1. THIS CASE HAS BEEN PULLED FROM THE AGENDA.

F. REVIEW, CONSIDERATION AND POSSIBLE ACTION REGARDING THE MARICOPA COUNTY SUPERIOR COURT'S SENTENCING ORDER REQUIRING RESPONDENT TO SURRENDER HIS ARIZONA MEDICAL LICENSE AND POSSIBLE ACTION TO RESCIND REFERRAL TO FORMAL HEARING

1. MD-13-0939A, MD-14-0192A, MD-14-1382A, MD-14-1653A, MD-16-0489A, MD-16-0894A, HARINDER K. TAKYAR, M.D., LIC. #34308

Scott King was present on behalf of Dr. Takyar. AAG Elizabeth Campbell was present to provide Independent Legal Advice to the Board.

Ms. Smith informed the Board that Dr. Takyar surrendered his Arizona Medical license as part of the plea agreement in his criminal case. The State respectfully requested that the Board rescind these matters from formal hearing to allow Board staff to close the cases.

Mr. King requested that the Board accept the State's motion.

MOTION: Dr. Krahn moved in view of the physician's surrendering of his Arizona medical license as part of the criminal case in Maricopa County Superior Court, rescind the referral to Formal Hearing.

SECOND: Dr. Paul.

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

MOTION PASSED.

G. FORMAL INTERVIEWS

1. MD-17-0045A, DAVID F. KASSERMAN, M.D., LIC. #47326

Dr. Kasserman was present with counsel Scott King, Esq.

Board staff summarized that the Board initiated the case after receiving notification from the National Practitioner Data Bank ("NPDB") reporting that Dr. Kasserman's medical staff membership and clinical privileges at a Hospital were revoked, effective December 14, 2016. The decision was based on concerns regarding clinical judgment and decision making, and patient selection in several cases. Six patients' charts were selected and forwarded to an MC for a quality of care review. The MC identified concerns regarding Dr. Kasserman's medical recordkeeping, and found deviations from the standard of care relating to Dr. Kasserman's treatment of three of the six patients reviewed. The MC recommended that Dr. Kasserman obtain further medical education to confirm that his clinical decision making in more complicated cases is following appropriate clinical pathways and guidelines.

In opening, Mr. King noted that the only issue the MC had with patient LC was in timing in the instituting of the bloodless resuscitation protocol. Dr. Kasserman explained the risks of the surgery with the patient and once the situation required the bloodless resuscitation protocol he did so. Mr. King noted the opinion of an expert retained by Dr. Kasserman that Dr. Kasserman met the standard of care in his treatment of YE. With regard to patient ON, Dr. Kasserman performed a cholecystectomy and later developed an abscess which was drained appropriately.

In opening, Dr. Kasserman stated that LC was a unique presentation since patient refused a blood transfusion due to religious beliefs. Dr. Kasserman explained that he did not admit ON but that he was consulted and presented the family with the potential medical options. ON did not follow up with discharge recommendations or follow-up appointments.

During questioning, Dr. Kasserman addressed the MC's concerns regarding his surgical decision making. Dr. Kasserman explained how he determines whether the patient can be cared for in the current setting or if they need to be transferred to a higher level of care. Dr. Kasserman explained his care and treatment of ON and opined that he was capable of completing the surgery and that it was successful. Dr. Kasserman stated that due to losing his privileges he has suffered ramifications to his career.

In closing, Mr. King noted that Dr. Kasserman addressed his behavior concerns and has undergone counseling. Mr. King stated that Dr. Kasserman met the standard of care and that this case does not rise to a level of discipline.

MOTION: Dr. Krahn moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(e) and (q) for reasons as stated by SIRC.

SECOND: Dr. Paul.

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

MOTION PASSED.

Dr. Krahn noted that the licensee has taken steps in advance of this interview to address the Board's concern and opined that this does not rise to the level of discipline.

MOTION: Dr. Krahn moved to issue an Advisory Letter and Order for Non-Disciplinary CME for failing to prepare and document a plan to address anemia in a patient who refused blood products, for use of an aggressive bowel regimen to treat a presumed ileus and ureteral injury with sigmoid resection, and for failing to have a hepatobiliary surgeon further investigate the hepatic lesion prior to surgery. While the licensee has demonstrated substantial compliance through remediation, the Board believes that continuation of the activities that led to the Board's investigation may result in further Board action against the licensee. Within six months, complete no less than 5 hours of Board staff pre-approved Category I CME in surgical decision-making, including sigmoid resection. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Figge.

Dr. Gillard spoke against CME due to the litigation involved in this case. Dr. Krahn opined that the CME may be beneficial to the licensee's knowledge and skills.

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

MOTION PASSED.

2. MD-14-1249A, MD-15-0585A, ABEDON A. SAIZ, M.D., LIC. #24387

Dr. Saiz was present with counsel Cody Hall and counsel Karen Stillwell. Attorney Kimberly Kent addressed the Board on behalf of the Hospital during the Public Statements portion of the meeting.

Mr. Hall noted Ms. Kent's Public Statement's request to table the Formal Interview until chart reviews have been completed.

MOTION: Ms. Salter moved for the Board to enter into Executive Session pursuant to A.R.S. § 38-431.03(A)(3).

SECOND: Dr. Figge.

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

MOTION PASSED.

The Board entered into Executive Session at 10:30 a.m.

The Board returned to Open Session at 10:47 a.m.

No legal action was taken by the Board during Executive Session.

Ms. Stillwell reported that Dr. Saiz has already completed the recommendations made by SIRC and chart reviews have been scheduled. The PACE evaluation determined that Dr. Saiz's overall performance was consistent with a passing grade. Dr. Saiz also completed the PACE medical recordkeeping. Dr. Saiz has employed a medical scribe at his private practice and that his electronic recordkeeping system was replaced with a more user-friendly system prior to the performance of the PACE evaluation. Ms. Stillwell asserted that there is no health and public safety concerns while the chart reviews are being completed and requested that a continuance be granted until the chart reviews be completed.

Mr. Hall noted that the complaints have been pending since 2014 and the Board's concerns regarding medical records are being addressed.

Dr. Farmer spoke against granting the request as there are concerns other than medical record issues such as quality of care concerns.

MOTION: Dr. Farmer moved to deny the request to table the interview.

SECOND: Dr. Krahn.

Dr. Krahn opined that the Board should follow its normal processes.

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

Board staff summarized that the Board initiated case number MD-14-1249A after receiving a complaint regarding Dr. Saiz's care and treatment of a 58 year-old female patient ("VD") alleging performance of an unnecessary ostomy, inadequate post-ostomy care and treatment, and failure to diagnose C. difficile. The MC found that Dr. Saiz deviated from the standard of care in terms of his surgical decision making, and also identified medical recordkeeping concerns.

Board staff summarized that the Board initiated case number MD-15-0585A after receiving a complaint regarding Dr. Saiz's care and treatment of a 61 year-old male patient ("EA") alleging failure to properly perform a Nissen fundoplication surgery. The MC identified deviations from the standard of care.

Ms. Stillwell spoke to case number MD-14-1249A stating that the MC found Dr. Saiz was attempting to act in the best interest of the patient. The PACE competency evaluation found minor deficiencies and ultimately found Dr. Saiz to be an expert surgeon. Dr. Saiz has complied with all four recommendations made by PACE to address his medical record concerns. Ms. Stillwell requested that the Board not take disciplinary action and to dismiss the case.

Dr. Saiz stated that he has learned from this situation and that he must keep up to date with the changes in medical records and the importance of medical records. Dr. Saiz explained his discussions with and the treatment of patient VD.

Mr. Hall spoke to case MD-15-0585A, requested that the case be dismissed as Dr. Saiz has addressed the Board's concerns regarding public safety through receiving a passing score in the PACE competency evaluation and the medical record keeping concerns through CME.

During questioning, Dr. Saiz addressed the concerns regarding his medical management and decision making regarding the two cases. With regards to VD in hindsight he should have referred the patient to a tertiary center since it was not a life threatening situation. With regards to EA, in hindsight instead of completing the redo should have referred the patient to a higher level of care and has since done so.

In closing, Dr. Saiz commented that when serving an underserved community a physician not only faces limitations with available providers and the limitations of the facility but must also treat cases that one is not always capable of. Dr. Saiz informed the Board that

he has learned if he is not capable of treating the patient a referral to a higher level of care must be made.

In closing, Ms. Stillwell noted that at the time of treatment of VD he opined the situation to be emergent. Mr. Hall noted that the poor outcome of EA was not related to the surgery that Dr. Saiz performed.

Board staff informed the Board of the other options available to EA in lieu of the redo.

MOTION: Dr. Farmer moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(e) and (q) for reasons as stated by SIRC.

SECOND: Dr. Krahn.

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

MOTION PASSED.

Dr. Farmer noted that the steps to address the medical recordkeeping concerns are mitigating, and that the physician has actively attempted to cooperate with the Board and remediate the Boards concerns.

MOTION: Dr. Farmer moved to issue an Advisory Letter for failing to perform a modified anti-reflux procedure in a patient whose esophagram showed esophageal dysmotility and who had previously undergone a hiatal hernia repair; for performing an ostomy in another patient that was surgically unnecessary; and, for inadequate documentation. While the licensee has demonstrated substantial compliance through remediation that mitigates the need for discipline, the Board believes that continuation of the activities that led to the investigation may result in further Board action against the licensee.

SECOND: Dr. Paul.

Dr. Krahn noted that the physician has had significant board history years ago that shows a pattern that the physician does take the Board's action seriously and that he is able to learn from this situation.

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

MOTION PASSED.

3. MD-17-0472A, RICHARD A. WALL, M.D., LIC. #10250

Dr. Wall was present with counsel Cody Hall, Esq. Dr. Krahn recused from this case.

Board staff summarized that the Board initiated the case after receiving a complaint from patient SK, a 58 year-old female, alleging that Dr. Wall kissed her at an appointment in 2016, and again in March of 2017 during an appointment. Board staff determined that Dr. Wall engaged in inappropriate conduct with a patient. Dr. Wall admits that a kiss occurred during the last appointment with the patient but reported that the patient initiated the kiss. However, Dr. Wall failed to document the reported behavior in the medical record during the course of the Board's investigation, Dr. Wall underwent a psychosexual evaluation and the evaluators concluded that he did not meet any criteria for a psychiatric condition. However, the evaluators made recommendations regarding use of a chaperone and engaging in therapy to remediate some concerns.

Mr. Hall requested that the Board reject Board staff's recommendation and issue an advisory. Mr. Hall noted the evaluator's finding that Dr. Wall does not meet the criteria for a psychiatric condition or Board monitoring or restrictions on his license.

During questioning, Dr. Wall stated that after the 2013 incident he stopped hugging patients for a period of time. After a while, he began giving patients a sideways hug if they felt it would be beneficial. Since SK's complaint he has not hugged patients. Dr. Wall stated that he has asked multiple times for a scribe but has not been granted one. Dr. Wall explained that at the end of the visit he now has a medical assistant (MA) present with female patients. Dr. Wall reported that he always has his MA present for breast and pelvic exams. Dr. Wall explained that he did not document the incident in the medical record as it did not see appropriate information for a medical record.

Board staff noted that the supervisor stated in his interview he did not investigate SK's complaint as he did not believe the accusation. SK expressed in her interview that she felt she was not believed due to her diagnosis.

Dr. Wall in retrospect even though he felt uncomfortable in this situation he should have reported the incident and dismissed the patient. Dr. Wall explained that the complaint regarding a sideways hug was dismissed by his supervisor.

In closing, Mr. Hall stated that the evidence does not support Board staff's recommendation and the Season's evaluation supports that he is safe to practice.

In closing, Board staff summarized that the physician has a history of similar complaints which establish a pattern. The physician has undergone boundaries training in 2013 and yet failed to document such an incident occurred. The only way to ensure the physician follows Season's recommendation of a chaperone is to monitor through probation.

During deliberations, Dr. Paul expressed concern with what appears to be a troubling pattern of behavior. Dr. Paul opined that there was unprofessional conduct.

MOTION: Dr. Paul moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(q) and (z)(ii) for reasons as stated by SIRC.

SECOND: Dr. Figge.

Dr. Figge commented that it is objectively clear that there is a hugging behavior and that if something unusual occurs during a patient encounter it must be documented.

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

MOTION PASSED.

Dr. Paul commented that due to a repetitive behavior and a lack of discussion with peers or documentation this case rises to a level of discipline.

MOTION: Dr. Paul moved for a draft Findings of Fact, Conclusions of Law and Order for Five Year Probation. Dr. Wall shall have a scribe or chaperone present during all female patient encounters. Within thirty days, Dr. Wall shall enter into treatment with a Board approved psychologist for treatment as recommended by the evaluation facility for a minimum of one year. Once the licensee has complied with the terms of Probation, he may petition the Board to request Probation termination.

SECOND: Dr. Figge.

Dr. Gillard noted that the Board utilizes referrals to psychosexual evaluations in determining Board actions. Ms. Jones opined that intensive in-person CME in boundaries would be beneficial. Dr. Farmer noted the evaluator's recommendation for a psychologist to in regards to appropriate boundaries.

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Connolly, Dr. Figge and Dr. Paul. The following Board members voted against the motion: Dr. Gillard and Ms. Jones. The following Board members abstained: Dr. Farmer and Ms. Salter. The following Board member was recused: Dr. Krahn. The following Board members were absent: Ms. Bain and Dr. Bethancourt.

VOTE: 3-yay, 2-nay, 2-abstain, 1-recuse, 2-absent.

MOTION PASSED.

OTHER BUSINESS

H. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-15-0376A, JULIE E. DIXON, M.D., LIC. #34663

Dr. Krahn recused from this case.

Dr. Gillard summarized that Dr. Dixon has been compliant and underwent a PHP assessment by Dr. Schwartz and the PHP Contractor who are in support of early termination.

MOTION: Dr. Figge moved to grant the request to terminate the Board Order.

SECOND: Ms. Jones.

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

MOTION PASSED.

I. CONSIDERATION OF DUAL JURISDICTION OF THE AMB AND THE ARIZONA HOMEOPATHIC BOARD

1. MD-18-0214A, MARTHA M. GROUT, M.D., LIC. #24896

Ms. Smith summarized that there was a complaint from a fellow staff member regarding Dr. Grout who holds an allopathic and homeopathic license. Ms. Smith further stated that there is currently another pending arbitration for a dual licensed physician and in the event that the Homeopathic Board takes jurisdiction on this matter, both of the cases can be heard in a consolidated manner.

Dr. Figge and Dr. Farmer commented that there is allopathic medicine being practiced in this case. Dr. Connolly noted that there appropriate supervision of staff is a statute under the allopathic statute.

MOTION: Dr. Krahn moved to assert jurisdiction over the case. In the event that the Homeopathic Board asserts jurisdiction as well, initiate arbitration proceedings with Dr. Krahn to present on behalf of the Board, to assert the Board's jurisdiction over this matter and to consolidate with the additional case currently pending in arbitration.

SECOND: Dr. Farmer.

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

MOTION PASSED.

J. GENERAL CALL TO THE PUBLIC

No individuals addressed the Board during the General Call to the Public.

K. ADJOURNMENT

MOTION: Dr. Krahn oved to adjourn the meeting.

SECOND: Dr. Paul.

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

MOTION PASSED.

The meeting adjourned at 12:54 p.m.



Patricia E. McSorley
Patricia E. McSorley, Executive Director