



Arizona Medical Board

1740 W. Adams St, Suite 4000 • Phoenix, Arizona 85007

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Telephone (480) 551-2700 • Fax (480) 551-2705 • In-State Toll Free (877) 255-2212

FINAL MINUTES FOR SPECIAL TELECONFERENCE MEETING

Held on September 13, 2018

1740 W. Adams St., Board Room B • 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.

GENERAL BUSINESS

A. CALL TO ORDER

Dr. Farmer called the meeting to order at 6:03 p.m.

B. ROLL CALL

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

The following Board members were absent: Dr. Gillard.

ALSO PRESENT

Present among Board staff include: Patricia McSorley, Executive Director; Raquel Rivera, Investigations Manager; Erinn Downey, Investigations Assistant Manager, Mary Bober, Board Operations Manager; and Michelle Robles, Board Coordinator. Additionally present: Carrie Smith, AAG

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-16-1435A, DIANA H. HYDZIK, M.D., LIC. #29302

Dr. Hydzyk was not present. AAG Froedge was present on behalf of the State. AAG Campbell was present as the Board's independent legal counsel.

AAG Froedge, on behalf of the state, summarized that this case was referred to the Office of Administrative Hearings due to quality of care allegations regarding patient SC and due to health concerns that may affect the licensee's ability to safely practice

medicine. Dr. Hydzik did not respond to Board staff throughout the investigation or to the Notice of Hearing. All forms of contact failed and Dr. Hydzik failed to update forms of contact and addresses. On behalf of the State, AAG Froedge requested that the Board adopt the Administrative Law Judge's (ALJ) recommended decision for revocation with the proposed modifications to findings of fact and conclusions of law as stated in the State's memorandum. AAG Froedge explained that the purpose of the proposed changes were to address typographical errors, and to protect the licensee's health information. .

MOTION: Dr. Paul moved to accept the ALJ's proposed Findings of Fact to include the proposed modifications by the State.

SECOND: Dr. Krahn.

The following Board members voted in favor of the motion: Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Krahn and Dr. Paul. The following Board members were absent: Dr. Gillard. VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

MOTION: Dr. Figge moved to accept the ALJ's proposed Conclusions of Law to include the proposed modification by the State.

SECOND: Ms. Jones.

The following Board members voted in favor of the motion: Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Krahn and Dr. Paul. The following Board members were absent: Dr. Gillard. VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

MOTION: Dr. Bethancourt moved to accept the ALJ's recommended decision for Revocation of License.

SECOND: Dr. Figge.

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

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

MOTION PASSED.

CONSENT AGENDA

E. CASES RECOMMENDED FOR DISMISSAL

MOTION: Dr. Krahn moved to dismiss in item numbers 1-3.

SECOND: Dr. Paul.

The following Board members voted in favor of the motion: Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Krahn and Dr. Paul. The following Board members were absent: Dr. Gillard.

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

MOTION PASSED.

1. MD-17-0975A, AMANDA F. BAUER, M.D., LIC. #35853

RESOLUTION: Dismiss.

2. MD-17-0628A, JAMES A. WARNEKE, M.D., LIC. #14502

RESOLUTION: Dismiss.

3. MD-18-0048A, ERIN S. BARTH, M.D., LIC. #53651

RESOLUTION: Dismiss.

F. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Ms. Jones moved to issue an Advisory Letter in item numbers 1,2,3,5.

SECOND: Dr. Figge.

The following Board members voted in favor of the motion: Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Krahn and Dr. Paul. The following Board members were absent: Dr. Gillard.

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

MOTION PASSED.

1. MD-18-0266A, YURI TALALAEV, M.D., LIC. #28484
RESOLUTION: Issue an Advisory Letter for attesting to having queried the CSPMP for patients receiving medical marijuana certifications when he did not. 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.
2. MD-17-1185A, SAMI VICTOR, M.D., LIC. #44918
RESOLUTION: Issue an Advisory Letter for failure to timely report a misdemeanor charge to the Board. There is insufficient evidence to support disciplinary action.
3. MD-18-0057A, ANDREW S. WELLMAN, M.D., LIC. #15046
RESOLUTION: Issue an Advisory Letter for failure to document an office visit. 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.
4. MD-17-1054A, LLOYD A. COAKER, M.D., LIC. #11272
Dr. Figge stated that he knows the licensee but it would not affect his ability to adjudicate the case. Dr. Farmer stated he has met the licensee but it would not affect his ability to adjudicate the case

Dr. Farmer acknowledged that there was not a chaperone present; however, it is not the standard of care to always have a chaperone present. Dr. Bethancourt noted a previous case that was dismissed by the Board and that the licensee was urged to always have a chaperone present. Dr. Farmer noted that in this case the patient arrived early and the licensee attempted to accommodate.

MOTION: Dr. Figge moved to dismiss.
SECOND: Ms. Jones.
The following Board members voted in favor of the motion: Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Krahn and Dr. Paul. The following Board members were absent: Dr. Gillard.
VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.
5. MD-18-0579A, WILLIAM J. ADAMAS-RAPPAPORT, M.D., LIC. #15658
Dr. Figge stated that he knows the licensee but it would not affect his ability to adjudicate the case.

RESOLUTION: Issue an Advisory Letter for practicing medicine with an expired license. There is insufficient evidence to support disciplinary action.

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

MOTION: Dr. Krahn moved to issue an Advisory Letter and Order for Non-Disciplinary CME in item numbers 1 and 2.

SECOND: Dr. Paul

The following Board members voted in favor of the motion: Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Krahn and Dr. Paul. The following Board members were absent: Dr. Gillard.

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

MOTION PASSED.

1. MD-18-0115A, RICHARD J. WHITMAN, M.D., LIC. #14188

RESOLUTION: Issue an Advisory Letter and Order for Non-Disciplinary CME for inadequate documentation. There is insufficient evidence to support disciplinary action. Within six months, complete no less than 15 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.

2. MD-18-0351A, LEWIS A. ANDRES, M.D., LIC. #40126

RESOLUTION: Issue an Advisory Letter and Order for Non-Disciplinary CME for failing to inform the patient of the diagnosis of recurrent invasive breast cancer, failing to coordinate care with the patient's other health care providers, and by failing to maintain adequate 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.

3. MD-17-0740A, GABRIEL L. BONILLA, M.D., LIC. #32912

Dr. Bonilla and Counsel Steve Myers addressed the Board during the Public Statements portion of the meeting.

Dr. Figge commented that the licensee's approach regarding needle placement was in the realm of the standard of care. Dr. Figge noted that there was no patient harm in this case and that the Board's two Medical Consultants (MC) were conflicted that this was within the standard of care. Ms. Jones noted that the MCs felt that there was tampering with the medical records although this was not proven. Dr. Krahn opined that the licensee could benefit from CME in medical recordkeeping.

MOTION: Dr. Krahn moved to issue an Advisory Letter and Order for Non-Disciplinary CME for inadequate medical records. There is insufficient evidence to support disciplinary action. Within 6 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: Ms. Jones.

Dr. Figge agreed with the Board's comments on medical recordkeeping.

The following Board members voted in favor of the motion: Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Krahn and Dr. Paul. The following Board members were absent: Dr. Gillard.

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

MOTION PASSED.

H. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

MOTION: Dr. Krahn moved to uphold the Executive Director Dismissal in item numbers 1-3.

SECOND: Dr. Figge.

The following Board members voted in favor of the motion: Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Krahn and Dr. Paul. The following Board members were absent: Dr. Gillard.

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

MOTION PASSED.

1. MD-18-0621A, LEO KAHN, M.D., LIC. #20692
RESOLUTION: Dismissal upheld.
2. MD-18-0621B, IRWIN SHAPIRO, M.D., LIC. #8102
RESOLUTION: Dismissal upheld.
3. MD-17-1245A, CHARLES H. JOHNSON, M.D., LIC. #17178
RESOLUTION: Dismissal upheld.

I. LICENSE APPLICATIONS

i. APPROVE LICENSE APPLICATION

MOTION: Dr. Paul moved to grant the license application in item numbers 1-10.

SECOND: Dr. Figge.

The following Board members voted in favor of the motion: Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Krahn and Dr. Paul. The following Board members were absent: Dr. Gillard.

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

MOTION PASSED.

1. MD-18-0219A, MICHAEL W. TRIERWEILER, M.D., LIC. #N/A
Dr. Trierweiler addressed the Board during the Public Statements portion of the meeting.
RESOLUTION: Grant the license.
2. MD-17-1127A, DONALD C. BLAKE, M.D., LIC. #N/A
RESOLUTION: Grant the license.
3. MD-17-1219A, ROBIN G. SMITH, M.D., LIC. #N/A
RESOLUTION: Grant the license.
4. MD-18-0166A, TODD G. HOLMES, M.D., LIC. #N/A
RESOLUTION: Grant the license.
5. MD-18-0190A, SIMON B. ISAAC, M.D., LIC. #N/A
RESOLUTION: Grant the license.
6. MD-18-0669A, STEVEN P. BRAFF, M.D., LIC. #N/A
RESOLUTION: Grant the license.
7. MD-18-0811A, DANIEL L. SPITZ, M.D., LIC. #N/A
RESOLUTION: Grant the license.
8. MD-18-0662A, PHILLIP GLOTSER, M.D., LIC. #N/A
RESOLUTION: Grant the license.
9. MD-18-0058A, ALEXANDER T. PODOLSKY, M.D., LIC. #N/A
RESOLUTION: Grant the license.
10. MD-17-1053A, JOSHUA J. JOHNSON, M.D., LIC. #N/A
RESOLUTION: Grant the license.

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

MOTION: Dr. Figge moved to grant licensure by endorsement in item numbers 1 and 2.

SECOND: Dr. Paul.

The following Board members voted in favor of the motion: Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Krahn and Dr. Paul. The following Board members were absent: Dr. Gillard.

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

MOTION PASSED.

1. RICHARD J. HERNANDEZ, M.D., LIC. #N/A

RESOLUTION: Grant the license by endorsement.

2. LEMEUL A. MOYE, M.D., LIC. #N/A

Dr. Moye addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Grant the license by endorsement.

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

OTHER BUSINESS

J. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-15-0894A, REZA A. ROD, M.D., LIC. #38069

Mr. Myers addressed the Board during the Public Statements portion of the meeting.

Board staff summarized that the Board's order requires the licensee to undergo periodic chart reviews, with the option to terminate probation after two favorable chart reviews. The Dr. Rod's first chart review was favorable.. The second round of chart reviews were scheduled for September 15, 2018, however, due to the request for termination the case is now before the Board for consideration.

Board staff commented on the Board's process for conducting periodic chart reviews and explained the timing for obtaining the initial chart review in this case.

Ms. Jones noted that there is understanding for licensee's confusion in thinking the case was closed after the initial chart review. Dr. Farmer commented that although there was confusion the Board Order is still in effect. Dr. Figge commented that there is still time for another chart review to be completed to meet the terms of the Board Order and that once the timeline for the Order passes there is an understanding for requesting termination.

MOTION: Dr. Figge moved to deny the physician's request to terminate his February 2, 2017 Board Order.

SECOND: Ms. Jones.

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

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

MOTION PASSED.

K. GENERAL CALL TO THE PUBLIC

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

L. ADJOURNMENT

MOTION: Dr. Bethancourt moved to adjourn the meeting.

SECOND: Ms. Jones.

The following Board members voted in favor of the motion: Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Krahn and Dr. Paul. The following Board members were absent: Dr. Gillard.

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

MOTION PASSED.

The meeting adjourned at 6:56 p.m.



Patricia E. McSorley, Executive Director