



Arizona Medical Board

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

Home Page: <http://www.azmd.gov>

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

FINAL MINUTES FOR REGULAR SESSION MEETING Held on February 4, 2019 and on February 5, 2019 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, M.A., J.D., LL.M., Secretary

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

David C. Beyer, M.D., F.A.C.R., F.A.S.T.R.O.

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

Laura Dorrell, M.S.N., R.N.

Gary R. Figge, M.D.

Pamela E. Jones

Lois E. Krahn, M.D.

Edward G. Paul, M.D.

Monday, February 4, 2019

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, Ms. Bain, Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Dr. Figge and Dr. Paul.

The following Board members were absent: Ms. Jones and Dr. Krahn.

ALSO PRESENT

Present among Board staff include: Patricia McSorley, Executive Director; Kristina Fredericksen, Deputy Director; William Wolf, M.D., Chief Medical Consultant; Amy Skaggs, Staff Investigational Review Committee ("SIRC") Coordinator; Raquel Rivera, Investigations Manager; and Michelle Robles, Board Operations Manager. Additionally present was Carrie Smith, AAG and Anne Froedge, 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.

D. EXECUTIVE DIRECTOR'S REPORT

- Legislative Update – Discussion Regarding Pending Legislation Including But Not Limited To:
 - HB2118 Unauthorized Practice; Health Professions
Ms. McSorley reported that this bill appears to be a response to recent media reports regarding imposter medical practitioners. The proposed legislation would require the Board to maintain an imposter list for the public's review on the Board's website and gives the Board the right to issue a cease and desist order to unauthorized practitioners. In response to a Board member's inquiry regarding

whether unauthorized practice fell within the Agency's jurisdiction, Ms. Smith noted that this bill would expand the jurisdiction of the Board to encompass all unauthorized practice under a board's regulation. Ms. McSorley noted that the bill would mandate the Board to inform law enforcement of an imposter.

- SB1108 Electronic Prescribing; Exceptions; Deadlines
Ms. McSorley reported that the intent of this bill is to correct portions of the Opioid Epidemic Act. Ms. McSorley reported that the Pharmacy Board had been inundated with approximately 40,000 waiver requests to the e-prescribing deadline. The bill's language would push the deadline back to January 1, 2020 for all participants without the opportunity to request a waiver. Additionally, the bill addresses clarification of physician assistant prescribing authority for opioid medications.
- SB1029 Qualifying Physicians; Opiate Dependent Physicians
Ms. McSorley reported that this is the DATA Waiver bill, and that the bill has passed unanimously in the Senate.
- Update on GL Solutions Contract
Ms. McSorley reported that Board staff continues to work on a finalized contract.
- Update on Sunset Review
Ms. McSorley reported received the Board received the maximum 8 year renewal by both the Senate and the House.
- Attendance at Federation of State Medical Boards (FSMB) Conference
Ms. McSorley informed the Board that there is availability for any members who want to attend. The meeting takes place on April 25-27 in Fort Worth, Texas.
- Update on Board Staffing
Ms. McSorley reported that three investigators have been hired to fill vacant positions.

E. CHAIR'S REPORT

- Update on FSMB 2019 Annual Meeting
Dr. Gillard commented that this event is worth attending and is very informative.
- Welcome new Board member David C. Beyer, M.D.
Board members welcomed Dr. Beyer to the Board.

F. LEGAL ADVISOR'S REPORT

No report was given.

G. DISCUSSION AND POSSIBLE ACTION REGARDING ELECTION OF OFFICERS

Ms. McSorley requested nominations for the executive officers. Ms. Bain expressed her gratitude for the dedication and hard work of the other outgoing executive officers.

Election of Board Officers Nominations for Board elections:

R. Screven Farmer, M.D. - Chair James M. Gillard, M.D. - Vice Chair Edward G. Paul, M.D. - Secretary

H. APPROVAL OF MINUTES

MOTION: Ms. Bain move to Approve the November 8, 2018 Special Teleconference; the November 29, 2018 Summary Action, Including Executive Session; and the December 5, 2018 Regular Session, including Executive Session.

SECOND: Dr. Farmer.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.
MOTION PASSED.

LEGAL MATTERS

I. MOTION FOR REHEARING/REVIEW (Formal Interview)

1. MD-17-0516A, MARK R. MOURITSEN, M.D., LIC. #28909

Dr. Mouritsen was present without counsel. Dr. Gillard stated that has met the physician but it would not affect his ability to adjudicate the case.

Dr. Mouritsen stated that he accepts the issuance of a Letter of Reprimand however; he is appealing the term of Probation imposed for Physician Health Program ("PHP") participation. Dr. Mouritsen noted that he provided letters of support in the file for the Board's review. Dr. Mouritsen noted the negative repercussions that Probation will have on his career and ability for rehabilitate. Dr. Mouritsen requested that the Board remove the Probation from the Board Order.

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

SECOND: Dr. Paul.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

The Board entered into Executive Session at 9:21 a.m.

The Board returned to Open Session at 9:41 a.m.

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

Dr. Farmer opined that no legal reason has been presented to change the issuance for disciplinary action.

MOTION: Dr. Farmer moved to deny the physician's motion for rehearing/review.

SECOND: Ms. Bain.

Dr. Figge commented that the Board previously agreed that this matter rose to the level of discipline and that the physician needs to be monitored for a specific period of time. Ms. Bain commented that the mechanism for monitoring when discipline is involved is Probation. Dr. Figge spoke in favor of the motion as none of the criteria for rehearing or review have been met.

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

VOTE: 8-yay, 0-nay, 1-abstain, 0-recuse, 2-absent.

MOTION PASSED.

2. MD-17-0265A, MD-17-0378A, MD-17-0528A, MD-18-0108A, MICHAEL J. FITZMAURICE, M.D., LIC. #36511

Dr. Fitzmaurice was present with counsel, Robert Itri. F. W. addressed the Board during the Public Statements portion of the meeting.

Dr. Fitzmaurice stated that he accepts the disciplinary action but is requesting clarification of the Findings of Fact ("FOF") related to case MD-17-0378A. Mr. Itri requested the Board delete reference to a diagnosis of Chronic Regional Pain Syndrome ("CRPS") in FOF 11 and 14as Dr. Fitzmaurice denied diagnosing the patient with CRPS. Mr. Itri explained that there was an administrative error in the billing statement, which was corrected quickly upon being discovered. Mr. Itri requested modification of FOF 13 regarding informed consent. Mr. Itri objected to the use of "experimental" in the FOF, and explained that Dr.

Fitzmaurice engaged in innovative care, as opposed to research or experimental care which would require adherence to different standards for treatment. Mr. Itri noted that the patient did not elect to pursue further treatment, therefore; the informed consent identified by the Board's Medical Consultant ("MC") was needed. Additionally, Mr. Itri requested modification of FOF 18 to reflect the MC's phrasing regarding medical recordkeeping.

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.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

The Board entered into Executive Session at 9:57 a.m.

The Board returned to Open Session at 10:13 a.m.

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

MOTION: Ms. Bain moved to Grant a limited review to revise the Order based on A.A.C. R4-16-103(d)(8).

SECOND: Dr. Figge.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

MOTION: Ms. Bain moved to revise the order as follows: Remove reference to CRPS in Findings of Fact 11 and delete Finding of Fact 14.

SECOND: Dr. Paul.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

MOTION: Ms. Bain moved to modify Finding of Fact 13 as follows: Delete Finding of Fact 13 in its entirety and replace it with finding that "Respondent failed to adequately document his discussions with MB concerning the nature and risk attendant to PRP and AFT".

SECOND: Dr. Figge.

Ms. Smith recommended that if the Board agrees with the request that the paragraph be modified in its entirety.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

MOTION: Ms. Bain moved to modify Finding of Fact 18 as follows: Revise to remove "inadequate" and following language, and replace with "borderline complete".

SECOND: Dr. Figge.

Dr. Figge noted that "inadequate medical records" is the standard language used by the Board.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

Ms. Smith recommended that Case #MD-17-0378A be removed from Conclusions of Law ("COL") 3, and that FOF 15 be deleted. Ms. Smith noted that as revised, the other findings related to the case do not establish a deviation from the standard of care, and therefore, a finding of potential harm is not relevant, and absent a deviation from the standard of care, the violation of A.R.S. § 32-1401(27)(r) would not be sustained .

MOTION: Ms. Bain moved to remove reference to MD-17-0378A from conclusion of law 3 and remove finding of fact 15.

SECOND: Dr. Figge.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

J. FORMAL INTERVIEWS

1. THIS ITEM HAS BEEN PULLED FROM THE AGENDA.

2. THIS ITEM HAS BEE MOVED TO AGENDA ITEM O.

3. MD-16-1353A, ALPEN B. PATEL, M.D., LIC. #47525

Dr. Patel was present with counsel Scott King. Dr. Connolly stated that she does not know the physician but have both been employed by the same employer. She stated that her ability to render a decision would not be affected.

Board staff summarized that the Board initiated the case after receiving a self-report from Dr. Patel disclosing that an internal investigation was underway regarding his prescribing of narcotic pain medication to a patient (VP). Additionally, Clinic where Respondent was practicing as a Resident notified the Board that Dr. Patel had been on administrative leave since September 29, 2016 and was subsequently dismissed from the Otolaryngology Residency Program effective November 2, 2016. Dr. Patel was sent for a PHP Assessment and the PHP Contractor opined that he was not safe to practice; therefore, Dr. Patel entered into an Interim Practice Restriction and presented to a Board approved Facility for an Intensive Diagnostic Evaluation. The Facility recommended inpatient treatment and Dr. Patel entered treatment at a Second Board approved Facility. He was discharged and found safe to practice so the restriction was lifted and he entered into an Interim Consent Agreement for Participation in the PHP. On June 14, 2017, Board staff received notification from the PHP Contractor of a complaint from the Second Facility reporting that a patient (DG) who was a patient during the time Dr. Patel was in treatment, disclosed that Dr. Patel contacted her on Facebook and offered to write her prescriptions for oxycodone if she would split them with him. Dr. Patel denied the accusations. On June 15, 2017, Board staff was informed that Dr. Patel's UDS was positive for a non-prescribed controlled substance. On June 28, 2017, the PHP Contractor met with Dr. Patel and he denied improper controlled substance use. Based on subsequent findings, the PHP Contractor opined that Dr. Patel was not safe to practice and Dr. Patel was placed on a second Interim Practice Restriction on July 10, 2017. On August 24, 2017, Dr. Patel entered into an Interim Consent Agreement for PHP Participation and on August 25, 2017, the second Interim Practice Restriction was lifted. On December 6, 2017, Board staff received a report of non-compliance from the PHP Contractor stating that on December 5, 2017, they received a positive UDS and positive hair test. Dr. Patel denied violating the Board order. The PHP Contractor opined that Dr.

Patel had relapsed and was not safe to practice and required long term residential treatment. Based on this information, Dr. Patel was placed on a 3rd Interim Practice Restriction on December 12, 2017, Dr. Patel reported to a Third Board-approved Facility for treatment. Dr. Patel voluntarily surrendered his DEA license on January 3, 2018. The Third Facility recommended that Dr. Patel continue monitoring for a minimum of 5 years and that he not yet return to the practice of medicine. the Third Facility also recommended that Dr. Patel return for a re-evaluation in 6 months and at that time his potential to return to practice will be examined. A Medical Consultant (MC) reviewed Dr. Patel's care of VP and opined that Dr. Patel prescribed narcotic medications to VP without any oversight or significant charting and that he was treating chronic pain outside the scope of his training in general otolaryngology. An MC reviewed Dr. Patel's care and treatment of VP, BP, and DG and opined that Dr. Patel improperly prescribed opioids by failing to adequately assess and monitor the patients. The MC also commented that there were valid concerns for diversion. The MC stated Dr. Patel deviated from the standard of care as he lacked credentials to prescribe opioids to DG in light of her history of addiction.

Dr. Patel stated that at present he is in full compliance with the monitoring program and wishes to continue his medical career. Dr. Patel agreed with continued monitoring but requested to return to the First Facility instead of the Third Facility to eliminate financial burden. Dr. Patel requested that he be allowed to request early termination of Probation at 36 months if a reevaluation supports that he is safe to return to practice. Dr. Patel requested that the Board waive the PHP approved 36 hour Alcohol and Drug Awareness Class requirement. Dr. Patel stated that he takes full responsibility for past behaviors and continues to work towards recovery. Dr. Patel stated that his goal is to practice medicine in a safe and ethical manner.

During questioning, Dr. Patel explained what occurred during the Clinic investigation when he was placed on administrative leave. Dr. Patel stated that he was dismissed due to his addictions. Dr. Patel explained that he was taking hydrocodone and oxycodone that was prescribed by Clinic physicians. Dr. Patel reported that he did prescribe outside of the Residency program but was not aware that it was a violation of the residency protocol. Dr. Patel also stated that he was not aware at the time that he was required to create a medical chart when he was prescribing and providing patient care outside of Residency. Dr. Patel clarified his documentation of VP during the summer of 2017 and noted that this prescribing occurred five years ago prior to the opioid epidemic. Dr. Patel agreed that there was a sequence of relapses that resulted in multiple Board practice restrictions and required evaluations. Dr. Patel informed the Board of his treatment and growth during his stay at the Third Facility. Dr. Patel explained that he does not feel that the Third Facility supports his return to his career. With regard to his applications for new residency programs, Dr. Patel noted that he provides a personal statement to all programs that he applies to and feels that it adequately summarizes what has occurred. Dr. Patel informed the Board of his relationship with DG and that he prescribed to DG during an urgent care visit. Dr. Patel explained his subsequent restriction and evaluation that resulted from DG's prescription. Dr. Farmer noted concerning Facebook messages between Dr. Patel and DG prior to DG's ER visit. Dr. Patel explained that he treated DG at the urgent care strictly in a physician/patient capacity. Dr. Patel stated that he did not split the pills he prescribed to DG. Dr. Patel informed the Board that he is seeing his psychiatrist every two months and attending AA everyday unless on vacation.

In closing, Dr. Patel agreed that he has made mistakes in his past but is working towards returning to medicine. Mr. King stated that Dr. Patel is in agreement with the proposed consent agreement and requested the switch from Pinegrove to Promises and the option for early termination in 36 months.

In closing, Board staff commented that a second opinion is not required at this point due to Dr. Patel's compliance. Board staff noted that the 36 hour AA class and early termination language used in the proposed consent agreement are standard terms of a Board Order. Board staff expressed concern that there is a letter of support from the PHP

monitor citing that Dr. Patel should continue to attend classes and recommended five years of monitoring and these are the terms of the Order that Dr. Patel are requesting to be modified. Board staff reported that Dr. Patel's personal statement was provided in an email format. Board staff found DG's interview to be credible. DG stated that Dr. Patel called her when his DEA license was reinstated. Board staff noted that Dr. Patel treated DG six days after his DEA license was reinstated. DG disclosed the plan to file a police report for stolen prescription, which she did not do and there was no police report. Dr. Patel attested to seeing a police report for stolen medication.

MOTION: Dr. Farmer moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(e), A.R.S. § 32-1401(27)(f), A.R.S. § 32-1401(27)(g), A.R.S. § 32-1401(27)(j), A.R.S. § 32-1401(27)(r), A.R.S. § 32-1401(27)(s), A.R.S. § 32-1401(27)(u), A.R.S. § 32-1401(27)(kk), and A.R.S. § 32-1401(27)(tt) for reasons as stated by SIRC.
SECOND: Dr. Paul.

ROLL CALL VOTE: The following Board members voted in favor of the motion:

The following Board members voted against the motion:

The following Board members were absent: Bain, Jones and Dr. Krahn.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

Dr. Farmer opined that this case clearly rises to the level of discipline as there is a number of serious concerns. Dr. Farmer stated that there is substance addition with multiple relapses, comorbid diagnoses, a history of poor insight and lying regarding compliance.

Dr. Farmer found issue with Dr. Patel's repeated pattern of dishonesty in treatment and use which exhibits concerns of the physician's ability to be regulated and for public safety. Dr. Farmer opined there is clear evidence of an egregious prescribing pattern. Dr. Farmer expressed significant concern regarding Respondent's treatment of Patient DG. Dr. Farmer opined Dr. Patel should not hold a medical license and agreed with the Third Facility that Dr. Patel is not ready to return to practice and should not practice certain medical specialties. Dr. Farmer opined that Dr. Patel should be referred to Formal Hearing for Revocation.

In response to a Board member's inquiry, Ms. Smith confirmed that a licensee may reapply for licensure after five years if their license is surrendered or revoked.

Dr. Beyer opined that the expressed concerns and behaviors are symptoms of Dr. Patel's addiction and that staying clean for five years may reflect different behaviors. Dr. Beyer opined that the residency letter does not highlight everything in the case but the intro to the letter does begin with admission of an addiction. Dr. Beyer agreed with the recommendation of a Letter of Reprimand and Probation for monitoring.

Board staff informed the Board that Dr. Patel was scheduled to attend a reevaluation in March, 2019.

Dr. Farmer acknowledged the issues of addiction but noted that they do not extend to the evidence of abuse of the physician/ patient relationship that is present and that a Formal Hearing will delve into the case in even more detail. Dr. Bethancourt commented that these behaviors are a combination of addiction as well as psychiatric illness where Dr. Patel is completely unaware of his actions and that continued treatment is necessary. Dr. Connolly agreed with Dr. Farmer's comments and questioned the physician's request to transfer from the Third Facility given their credibility and expressed concern that Dr. Patel is already requesting early termination.

MOTION: Dr. Farmer moved to refer to formal hearing for further proceedings.

SECOND: Dr. Figge.

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

**VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.**

4. MD-18-0040A, RICHARD H. DEMIR, M.D., LIC. #36773
Dr. Demir was present with counsel Bruce Smith.

Board staff summarized that the Board initiated the case based on a complaint from the Arizona Health Care Cost Containment System ("AHCCCS") Clinical Quality Management ("CQM") Unit after the death of BC due to poly drug toxicity. An MC concluded that Dr. Demir deviated from the standard of care in prescribing controlled substances to BC despite her history of opioid dependence; failed to address repeated toxicology screens which revealed the presence of multiple controlled substances not prescribed by Dr. Demir or, at times, other physicians; failed to access and/or respond to information available on the CSPMP; and failed to address these and other behaviors known to be potential warning signs of controlled substance abuse. In addition, the MC Identified documentation deficiencies. Board staff further summarized that the chart reviews of 3 additional patients suggested significant improvement in Dr. Demir's prescribing tendencies, utilization of the CSPMP site, and medication monitoring. Dr. Demir did confront non-compliance with the patients; however, he did not alter his prescribing based on this. Dr. Demir did have patient pain contracts; however, they were often violated and he continued to prescribe and only recently has Dr. Demir started decreasing medications. Board staff recommended a Letter of Reprimand in addition to CME in controlled substance prescribing as well as a patient communication course designed to assist the physician in handling difficult patients.

Dr. Demir stated that as a result of the investigation, multiple changes have occurred to remediate the expressed concerns. These changes include more robust pain contracts, improved documentation, enhanced communication, querying the CSPMP, coordinating with the primary care physician. Dr. Demir stated that in the event of a contract deviation he attempts to modify behavior as opposed to terminating a patient and when attempts to modify behaviors are unsuccessful, the patient will be terminated. Dr. Demir stated that he now refers patients to other services such as counseling and therapy. Dr. Demir stated that he has used this experience for self-improvement and to improve his practice. Dr. Demir opined that he was not at fault for BC's death.

Mr. Smith stated that pain management has continued to evolve over the past thirty years and noted supporting documents regarding the changes in guidelines. Mr. Smith stated that per these supportive documents Dr. Demir met the standard of care at the time he treated BC.

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

SECOND: Dr. Paul.

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

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

The Board entered into Executive Session at 12:05 p.m.

The Board returned to Open Session at 12:15 p.m.

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

During questioning, Dr. Demir explained his interest in the treatment of pelvic pain and endometriosis as an important area that is often unaddressed. Dr. Demir explained his intake process and evaluation process to determine the cause of pain. Dr. Demir explained BC was being treated for endometriosis and the reasoning for the medication prescribed. Dr. Demir acknowledged that in the past he did not always review the CSPMP reports but has since changed his practice. Dr. Demir explained his reasoning

behind the prescribing of amitriptyline. Dr. Demir commented that at the time of treatment he was ignorant of drug seeking behaviors and the tools available to physicians to monitor prescriptions. Dr. Demir reiterated that he disagreed with the cause of death due to the toxicology report which shows high levels of amitriptyline and no oxycodone. With regards to TN, Dr. Demir stated that she is a difficult patient with extreme pelvic pain. Dr. Demir reiterated that all patients' results are evaluated appropriately. Dr. Demir informed the Board that he makes attempts to work with the patient before termination in the event of a pain contract violation so that the patient receives care safely. Dr. Demir explained that when a patient violates a contract there is a stepwise decrease in pills until ultimately terminated.

In closing, Mr. Smith reiterated that Dr. Demir has made significant changes in his practice. Mr. Smith stated that Dr. Demir was not the cause of BC's death. Mr. Smith stated that in this case BC took prescription drugs and overdosed. Mr. Smith requested the issuance of an advisory letter and CME.

Board staff informed the Board of the recommended CPEP course that provides communication tools for difficult dialogues with patients.

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

SECOND: Dr. Paul.

ROLL CALL VOTE: The following Board members voted in favor of the motion: Dr. Gillard, Dr. Farmer, Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Dr. Figge and Dr. Paul. The following Board members were absent: Ms. Bain, Ms. Jones and Dr. Krahn. VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED/FAILED.

Dr. Figge opined that this case does not rise to the level of discipline and that counsel presented a compelling argument that a suicide attempt was a possibility. Dr. Figge noted that there are mitigating factors to include the many documentation changes and urine drug screens that now occur. Dr. Figge opined that concerns regarding ignored urine drug screens and lack of commination have been addressed by Dr. Demir establishing an alternative tiered approach to address pain management violations. Dr. Figge opined that record issues have been addressed however, additional CME may be beneficial.

MOTION: Dr. Figge moved to Issue an Advisory Letter for failing to timely address abnormal drug screen results, failing to alter prescribing based on patient non-compliance and violation of the pain contract; and failing to address medications being prescribed by other providers. While the licensee has demonstrated substantial compliance through rehabilitation or 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: Dr. Bethancourt.

Dr. Gillard agreed with the issuance of an Advisory Letter but opined that Dr. Demir has already completed an adequate amount of CME. Dr. Farmer agreed that a staged approach to pain management violations is commendable but noted that there is usefulness to completing the CPEP course. Board members agreed the physician has shown he is aware of the Board's concerns and has already made changes. Dr. Demir confirmed that he will take the recommended course since he has already registered for it.

The following Board members voted in favor of the motion:

The following Board members voted against the motion: Dr. Gillard, Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Dr. Figge and Dr. Paul. The following Board member abstained: Dr. Farmer. The following Board members were absent: Ms. Bain, Ms. Jones and Dr. Krahn.

VOTE: 7-yay, 0-nay, 1-abstain, 0-recuse, 3-absent.

MOTION PASSED.

CONSENT AGENDA

K. CASES RECOMMENDED FOR DISMISSAL

MOTION: Dr. Figge moved to dismiss in item numbers 1, 3 and 5.

SECOND: Dr. Farmer.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

1. MD-18-0729A, DANIEL F. SAAD, M.D., LIC. #47916

RESOLUTION: Dismissed.

2. MD-18-0233B, WILLIAM E. SHUELL M.D., LIC. #29987

Dr. Shuell addressed the Board during the Public Statements portion of the meeting. S.A. addressed the Board during the Public Statements portion of the meeting.

Dr. Farmer expressed concern about the MC's report regarding the lidocaine dosage exceeding the 55 ml/kg standard. Dr. Farmer opined that anything exceeding the 55 is concerning as recent data shows that a lower dosage should be used. Dr. Gillard noted that the documentation cites that some of the lidocaine leaked out of the syringe but does not specify the amount. Dr. Farmer opined that the case should be sent back for further investigation.

MOTION: Dr. Farmer moved to return for further investigation.

SECOND: Ms. Dorrell.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

3. MD-16-0797A, GREGORY V. BABIGIAN, M.D., LIC. #46494

Attorney Scott King addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

RESOLUTION: Dismissed.

4. MD-18-0202A, JEFFREY J. PTAK, M.D., LIC. #12948

Dr. Gillard noted that the physician has previous Advisory Letters from the Board and that the patient was advised of potential harm but not specifically blindness. Dr. Gillard opined this case warrants the issuance of an Advisory Letter for tracking. Dr. Figge noted that blindness is a known complication.

MOTION: Dr. Figge moved to issue an Advisory Letter for insufficiently detailed informed consent. There is insufficient evidence to support disciplinary action

SECOND: Dr. Bethancourt.

Dr. Farmer commented that the question is where this known complication falls in the continuum of possibility. Dr. Figge noted that this was a procedure around the eye and that the patient must be informed of the known complication.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

5. MD-18-0151A, DAX K. TRUJILLO, M.D., LIC. #31549

RESOLUTION: Dismissed.

L. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Dr. Figge moved to issue an Advisory Letter in item numbers 4-7, 10, 12, 14-16.

SECOND: Dr. Paul.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

1. MD-18-0497A, ELIZABETH J. MCCONNELL, M.D., LIC. #28532

Dr. McConnell addressed the Board during the Public Statements portion of the meeting. C.L. addressed the Board during the Public Statements portion of the meeting.

Board staff confirmed that the surgery was an emergent case and the outcome may have occurred regardless due to an underlying condition. Board staff explained that without addressing the underlying condition the issue will continue as surgery is a temporary fix. Board staff commented that the documentation is unclear regarding failure to follow-up. Board staff commented that although the patient is Spanish speaking the complaint was received in written English and there is a possibility that it could have been transcribed.

Dr. Gillard noted that the bleeding could have been a fissure.

MOTION: Dr. Figge moved to issue an Advisory Letter for causing injury to the external sphincter muscle during a procedure for a posterior fissure. There is insufficient evidence to support disciplinary action.

SECOND: Ms. Bain.

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

VOTE: 8-yay, 0-nay, 1-abstain, 0-recuse, 2-absent.

MOTION PASSED.

2. MD-18-0881A, PARVEZ P. JESSANI, M.D., LIC. #22709

Dr. Gillard summarized that the physician closed his office and had his mail and voicemail forwarded. The physician received a request for two years of medical records but the complainant requested additional records.

Board staff noted that the physician's responsibility is to maintain medical records for an adult for up to six years.

Dr. Figge opined that physician's must be held responsible for maintaining medical records per statute.

MOTION: Dr. Figge moved issue an Advisory Letter for failing to retain and provide a complete medical record. There is insufficient evidence to support disciplinary action.

SECOND: Dr. Farmer.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

Ms. Smith clarified the medical record retention statute.

3. MD-18-0536A, VERNON L. JOHNSON, M.D., LIC. #47121

Dr. Figge summarized that this case is before the Board for action taken by another state after it was discovered that his expired DEA number was used to order testosterone cream by the clinic where Respondent was employed. Dr. Figge opined that this was an administrative error where the physician did not order the medication.

Board staff confirmed that the testosterone was ordered two days after his DEA license expired. Board staff found it mitigating that this was an administrative error and therefore instead of mirroring Missouri's action for a Reprimand recommended an Advisory Letter.

Dr. Gillard noted that the physician stated that he never authorized the order for testosterone and that it was the previous physician.

MOTION: Dr. Figge moved to dismiss.

SECOND: Dr. Bethancourt.

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

VOTE: 8-yay, 0-nay, 1-abstain, 0-recuse, 2-absent.

MOTION PASSED.

4. MD-18-0353A, ROBERTO I. B. VALENCIA, M.D., LIC. #42622
RESOLUTION: Issue an Advisory Letter for failure to maintain adequate medical records. There is insufficient evidence to support disciplinary action.
5. MD-18-0785A, EUGENE S. PRETORIUS, M.D., LIC. #34905
Attorney Scott King addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Issue an Advisory Letter for failure to identify an aortic dissection on a CT scan. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

6. MD-18-0868A, MATTHEW F. WAY, M.D., LIC. #52912
RESOLUTION: Issue an Advisory Letter for action taken by the West Virginia Board. There is insufficient evidence to support disciplinary action.
7. MD-17-0966A, ADAM R. HECHT, M.D., LIC. #51376
RESOLUTION: Issue an Advisory Letter for failing to communicate an abnormal finding on a chest x-ray that was later identified as a malignancy. There is insufficient evidence to support disciplinary action.
8. MD-17-1134A, REYES R. TOPETE, M.D., LIC. #22381
Dr. Farmer agreed with the Advisory Letter for oversight but opined that it is not possible for a medical director to be aware of all care being administered at all times.

Board staff confirmed that the medical examiner surmised the cause of death was bronchopneumonia in the setting of heroin toxicity.

MOTION: Dr. Farmer moved to issue an Advisory Letter for inadequate oversight of mid-level providers and for inadequate delegation agreement with a physician assistant. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

SECOND: Dr. Figge.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

9. MD-18-0155A, ALAN E. ZEHNGUT, M.D., LIC. #11827
Dr. Farmer stated that he knows the physician but it would not affect his ability to adjudicate the case.

Dr. Farmer summarized that this was a situation where an electronic medical record (EMR) issue occurred and a prescription for morphine was given. Dr. Farmer noted that there is no documentation that the patient was allergic however; the records do show that the allergy warning was overwritten. Dr. Farmer opined that due to mitigating circumstances, an Advisory Letter may not be warranted.

Dr. Gillard agreed that electronic medical record allergic warnings do appear for common allergies despite relevance and must be overwritten. Dr. Gillard noted that there was a small medical malpractice settlement due to a rash that occurred. Dr. Farmer commented that discussion must occur when patients state they have an allergy, as their reaction may be a symptom and not an allergic reaction. Dr. Figge noted that an override for allergy warning requires multiple affirmations and a reason for the override. Dr. Figge commented that a small dosage was given and an Advisory Letter is not necessary.

MOTION: Dr. Figge moved to dismiss.

SECOND: Dr. Bethancourt.

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

VOTE: 8-yay, 0-nay, 1-abstain, 0-recuse, 2-absent.

MOTION PASSED.

10. MD-18-0978A, CHRISTOPHER S. HILER, M.D., LIC. #27512

RESOLUTION: Issue an Advisory Letter for failure to query the CSPMP database when issuing medical marijuana certifications. While the licensee has demonstrated substantial compliance through rehabilitation or 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.

11. MD-18-0589A, LAWRENCE P. SHANK, M.D., LIC. #27463

Dr. Shank and counsel Cory Tyskza addressed the Board during the Public Statements portion of the meeting. P.F. addressed the Board during the Public Statements portion of the meeting.

Board staff opined that CME is not required as the physician has many years of experience and shoulder dislocations are common. Board staff commented that the concern of a fracture by two radiologists should have been addressed and that the issue is until confirmation is obtained the shoulder should have remained immobilized.

Dr. Figge opined that the issuance of an Advisory Letter is enough notice to the physician to review x-rays. Dr. Gillard confirmed that the shoulder should have remained immobilized to prevent further harm.

MOTION: Dr. Figge moved to issue an Advisory Letter for inappropriate treatment of a patient following a shoulder dislocation. There is insufficient evidence to support disciplinary action.

SECOND: Dr. Paul.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

12. MD-18-0157A, KRISTINE A. BERNARDO, M.D., LIC. #40353

RESOLUTION: Issue an Advisory Letter for failing to contact the treating oncologist for input regarding the patient's CT scan findings and for failing to obtain a surgical consultation in a patient with a bowel obstruction secondary to

metastatic malignancy. There is insufficient evidence to support disciplinary action.

13. MD-18-0300A, RAJEESH S. PUNNAKATTU, M.D., LIC. #31787

J.B addressed the Board during the Public Statements portion of the meeting.

Dr. Gillard expressed concern that a chest x-ray should have been completed given a patient with obesity, sleep apnea and worsening COPD.

Board staff noted that oxygen saturations remained stable until the end when wheezing occurred. Further, the patient had been hospitalized prior to the physician's care where a CT showed a kidney mass, however the finding was not mentioned in the discharge summary. The MC stated that even if the patient had been diagnosed when he first began to deteriorate, his likely outcome would have been the same.

Board members agreed that a deteriorating patient exhibiting shortness of breath should have obtained a chest x-ray.

Board staff confirmed that the initial physician who missed the diagnosis has been referred to the Arizona Board of Osteopathic Examiners.

MOTION: Dr. Figge moved to Issue an Advisory Letter for failing to obtain a chest X-ray on a patient with chronic obstructive pulmonary disease, obstructive sleep apnea, and atrial fibrillation who reports increased dyspnea on exertion and has increased wheezing on exam; and for failing to obtain and review prior records. There is insufficient evidence to support disciplinary action.

SECOND: Dr. Paul.

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

VOTE: 8-yay, 1-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

14. MD-18-0735A, JAMES W. JAFFE, M.D., LIC. #49698

RESOLUTION: Issue an Advisory Letter for failure to notify the Board of a DUI in a timely manner. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

15. MD-18-0160A, FADI ATASSI, M.D., LIC. #44211

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

16. MD-18-1072A, JOHN A. MARTIN, M.D., LIC. #32052

RESOLUTION: Issue an Advisory Letter for failure to annually update a PA delegation agreement. While the licensee has demonstrated substantial compliance through rehabilitation or 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.

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

1. MD-18-0517A, PHILIP B. JAMES, M.D., LIC. #20691

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

Dr. Figge agreed with the physician's public statement. Dr. Figge opined that although another Board took disciplinary action additional CME is not needed. Dr. Gillard noted that the physician stated he has retired.

In response to a board member inquiry, Ms. Smith noted that the licensee's license does not expire until October.

MOTION: Dr. Figge moved to issue an Advisory Letter for action taken in another jurisdiction. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

SECOND: Dr. Connolly.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

2. MD-18-0309A, MEHR N. IQBAL, M.D., LIC. #32217

MOTION: Dr. Figge 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 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: Ms. Bain.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

3. MD-17-1230A, LAYNE C. SANDRIDGE, M.D., LIC. #40861

Dr. Sandridge and counsel Paul Giancola addressed the Board during the Public Statements portion of the meeting. C.M. addressed the Board during the Public Statements portion of the meeting.

Dr. Figge commented that there was an ongoing issue where an abscess occurred.

Board staff noted that the patient claimed there was an extended period of drainage. Board staff opined that an Advisory Letter may be sufficient as the licensee has claimed that she has already completed nine hours of CME. Board staff commented that vascular patients are at risk and if there was patient concern, a physician should follow-up

Dr. Figge noted that the physician saw the patient multiple times, ordered an ultrasound and noted that the wound looked good.

Board staff commented that although the ultrasound looked good with persistent complaints, another test should have been done.

MOTION: Dr. Figge moved to issue an Advisory Letter for failure to diagnose a post-surgical infection in a timely manner including ordering additional imaging as necessary for a timely diagnosis. There is insufficient evidence to support disciplinary action.

SECOND: Dr. Beyer.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

N. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

MOTION: Dr. Paul moved to uphold the Executive Director's dismissal in item numbers 1-3.

SECOND: Dr. Bethancourt.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

1. MD-18-0098A, CHRISTOPHER S. CRANFORD, M.D., LIC. #36858
RESOLUTION: Dismissal upheld.

2. MD-18-0971A, AARON M. LAINE, M.D., LIC. #55246
RESOLUTION: Dismissal upheld.

3. MD-18-0664A, GOPAL K. KAZA, M.D., LIC. #53234
Dr. Kaza and counsel Camilla Porter addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Dismissal upheld.

O. PROPOSED CONSENT AGREEMENTS (Disciplinary)

MOTION: Dr. Figge moved to accept the proposed Consent Agreement in item numbers 1-7.

SECOND: Dr. Paul.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

1. MD-16-0747A, JAMES R. BOYED, M.D., LIC. #13616
RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand.

2. MD-18-0436A, JOHN D. GRIMME, M.D., LIC. #47911
RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand.

3. MD-17-1162A, ELLEN T. OLSON, M.D., LIC. #40418
RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand with Five Year Probation to participate in PHP with the terms consistent with the current Interim Consent Agreement. Probation shall be retroactive to February 22, 2018. Once the physician has complied with the terms of Probation, she may petition the Board to request termination.

4. MD-18-0184A, RONALD S. BURNS, M.D., LIC. #16073
RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand and Probation. 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. The Probation shall terminate upon proof of successful completion of the CME coursework.

5. MD-17-0133A, STANLEY K. BROWN, M.D., LIC. #14729
RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand and Probation. 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. The probation shall terminate upon proof of successful completion of the CME course.

6. MD-16-1106A, MD-17-0078A, KARNAIL S. DHILLON, M.D., LIC. #27921
RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand and Five Year Probation with Practice Restriction. The physician shall be prohibited from prescribing controlled substances until completion of CME. Within six months, the physician shall obtain no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding prescribing

controlled substances and 10 hours of CME in an intensive in-person medical recordkeeping course. The CME hours shall be in addition to the hours required for license renewal. Within thirty days from the successful completion of the CME coursework, the physician shall enter into a contract with a Board approved monitoring company to perform periodic chart reviews, at the physician's expense. The physician shall not request early termination of Probation without having completed the chart review process and his request for termination must be accompanied by three consecutive favorable chart reviews.

7. MD-17-1138A, MERVAT G. KELADA, M.D., LIC. #28248

RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand and 5 year Probation with term and conditions requiring compliance with the California Board Order. Respondent's probation shall be retroactive to December 7, 2017. Respondent must affirmatively request probation be terminated and shall provide the Board proof of termination of the California Board Order at the time of the request.

P. LICENSE APPLICATIONS

i. CONSIDERATION AND POSSIBLE ACTION TO APPROVE OR DENY LICENSE APPLICATION, OR TO TAKE OTHER ACTION

MOTION: Dr. Farmer moved to grant the license in item numbers 1, 2 and 5-13.

SECOND: Dr. Bethancourt.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

1. MD-17-0995A, JOANNE R. C. RICHARDSON-TOLLERTON, M.D., LIC. #N/A

Attorney Paul Giancola addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: License granted.

2. MD-18-0499A, EDWARD T. PAGET, M.D., LIC. #N/A

RESOLUTION: License granted.

3. MD-15-1189A, ABRAHAM J. SAYEGH, M.D., LIC. #N/A

Dr. Paul noted that the physician has signed a consent agreement. Dr. Gillard commented that the physician has met the requirements set by the Board.

MOTION: Dr. Paul moved to approve the signed consent agreement and grant the probationary license.

SECOND: Dr. Connolly.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

4. MD-18-0619A, KHALDOUN JABI, M.D., LIC. #N/A

Dr. Gillard noted that this case was heard at the October meeting and the Board moved to invite the physician in for a licensing interview due to concerns regarding a lapse in practice for two years in the United States. Dr. Gillard noted that the physician has been practicing in Dubai.

Ms. Smith reported that the physician's counsel requested that the Board consider the additional information in lieu of an interview.

Dr. Gillard noted that the physician has been practicing in Dubai for the past two years and holds an unrestricted license in Kentucky. Dr. Figge opined the letters of support were strong.

MOTION: Dr. Figge moved to grant the license.

SECOND: Dr. Paul.

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

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

MOTION PASSED.

5. MD-18-0696A, KIMBERLY PAGE, M.D., LIC. #N/A

RESOLUTION: License granted.

6. MD-18-0831A, ROBERT J. PROFUMO, M.D., LIC. #N/A

RESOLUTION: License granted.

7. MD-18-1153A, JOSHUA S. MASON, M.D., LIC. #N/A

RESOLUTION: License granted.

8. MD-19-0026A, ANN M. CANELAS, M.D., LIC. #N/A

RESOLUTION: License granted.

9. MD-19-0067A, CURT A. ALLISON, M.D., LIC. #N/A

RESOLUTION: License granted.

10. MD-18-1124A, KURT A. HEINER, M.D., LIC. #N/A

RESOLUTION: License granted.

11. MD-18-0806A, RONALD W. ROSENBERG, M.D., LIC. #N/A

RESOLUTION: License granted.

12. MD-18-0997A, HERMILO O. JAZMINES, M.D., LIC. #N/A

RESOLUTION: License granted.

13. MD-18-0994A, FERNANDO R. DIAZ, M.D., LIC. #N/A

RESOLUTION: License granted.

ii. CONSIDERATION AND POSSIBLE ACTION TO APPROVE OR DENY LICENSE APPLICATION, OR TO TAKE OTHER ACTION WITH STAFF RECOMMENDATION

1. MD-18-0749A, LETICIA CALDERON-MORENO, M.D., LIC. #N/A

Dr. Calderon-Moreno addressed the Board during the Public Statements portion of the meeting.

Board staff summarized that a substantive review was conducted due to an affirmative answer and disclosed actions taken against the physician while in post-graduate training due to failure to demonstrate sufficient skills to advance. The Board recommended Dr. Calderon-Moreno undergo a competency evaluation in 2014 when the physician previously applied for a license. However, Dr. Calderon-Moreno has not complied with the recommendations from the evaluation.

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.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

The Board entered into Executive Session at 2:58 p.m.
The Board returned to Open Session at 3:16 p.m.
No legal action was taken by the Board during Executive Session.

Board staff confirmed that the applicant completed an evaluation four years ago and a neuropsychological evaluation thirteen years ago. CPEP requested an updated neuropsychological evaluation that the physician has not completed.

Dr. Figge commented that there is still a question of competency and fitness for duty to ensure the applicant's ability to safely practice medicine.

Board staff confirmed that the applicant has completed and passed the USMLE and has completed two years of residency. Board staff informed the Board that the applicant was unable to complete three separate residency programs and has not practiced since 2012.

MOTION: Dr. Figge moved to return for further investigation to allow the applicant to complete a comprehensive fitness for duty evaluation.

SECOND: Ms. Bain.

Ms. Bain commented that even after two years out of practice it is standard for the Board to establish competency.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

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

MOTION: Dr. Farmer moved to grant licensure by endorsement in item numbers 1-4.

SECOND: Dr. Paul.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

1. DENNIS P. MCCrackEN, M.D., LIC. #N/A

RESOLUTION: License granted by endorsement.

2. JUNE A. MOSSOP, M.D., LIC. #N/A

RESOLUTION: License granted by endorsement.

3. JACK M. DREW, M.D., LIC. #N/A

RESOLUTION: License granted by endorsement.

4. OMAR E. MENDEZ, M.D., LIC. #N/A

RESOLUTION: License granted by endorsement.

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

Q. GENERAL CALL TO THE PUBLIC

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

R. ADJOURNMENT

MOTION: Ms. Bain moved to adjourn the meeting.

SECOND: Dr. Farmer.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

The meeting adjourned at 3:46 p.m.

Tuesday, February 5, 2019

GENERAL BUSINESS

A. CALL TO ORDER

Dr. Gillard called the meeting to order at 8:00 a.m.

B. ROLL CALL

The following Board members were present: Dr. Gillard, Dr. Farmer, Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Dr. Krahn and Dr. Paul.

The following Board members were absent: Ms. Bain and Ms. Jones.

ALSO PRESENT

Present among Board staff include: Patricia McSorley, Executive Director; Kristina Fredericksen, Deputy Director; William Wolf, M.D., Chief Medical Consultant; Amy Skaggs, Staff Investigational Review Committee ("SIRC") Coordinator; Raquel Rivera, Investigations Manager; and Michelle Robles, Board Operations Manager. Additionally present were Anne Froedje, AAG; Beth Campbell, AAG and 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. FORMAL INTERVIEWS

1. MD-18-0473A, MARIA R. DILEO, M.D., LIC. #42144
Dr. Dileo was present with counsel Christina Chait.

Board staff summarized that this case was initiated after receiving notification of a malpractice settlement regarding Dr. Dileo's care and treatment of patient VG. On April 26, 2013, VG was initially evaluated at Dr. DiLeo's office by a nurse practitioner for a positive pregnancy test. On May 6, 2013 an ultrasound was performed and the preliminary report showed a possible left ectopic pregnancy and intrauterine pseudo-sac. Dr. DiLeo discussed expectant management with VG; however she suggested treatment with Methotrexate (MTX) since the ultrasound was consistent with a likely ectopic pregnancy. An MC who reviewed the case opined that Dr. DiLeo failed to review the ultrasounds that were carried out. MTX was administered with verbal consent although no written consent was obtained. There was no documentation of the discussion about the risks of the medication should a viable fetus be identified.

In opening, Dr. DiLeo acknowledged that the diagnosis was incorrect and the administration of MTX led to the fetal demise. Dr. DiLeo stated that she appropriately followed the ACOG guidelines and the standard of care in that was in place in 2013 when these events occurred. Dr. DiLeo explained that VG presented to the ER with abdominal pelvic pain and expressed concern of an ectopic pregnancy. Dr. DiLeo stated she did review the ultrasound images and the preliminary report and the specific location of the pregnancy could not be identified. Dr. DiLeo explained that given the data of clinically significant tenderness upon pelvic examination, a non-diagnostic ultrasound and HCG levels twice the discriminatory zone of an intrauterine pregnancy. Dr. DiLeo stated that she was concerned that an ectopic pregnancy was most likely and that she explained her concerns with VG in detail and noted that she could not be 100 percent certain. Dr. DiLeo stated that she did recommend inpatient monitoring but agreed it is not reflected in the record. Dr. DiLeo stated that she also discussed outpatient management, surgery and the administration of MTX to include the risks and benefits. Dr. DiLeo stated that VG was aware that the purpose of MTX was to terminate the pregnancy and gave her consent. Dr. DiLeo explained that she was not aware that the preliminary and final ultrasound reports would be done by different attending radiologists and had no suspicion that there would be a substantive difference between the reports. Dr. DiLeo stated that she now

waits for the final report in any clinically stable patient and make contact with the radiologist if concerned. Dr. DiLeo noted that during litigation, her care was reviewed by two standard of care experts who both opined that she met the standard of care.

During questioning, Dr. DiLeo confirmed that there was an image of something in the uterus which she believed could have been a fluid pocket. Dr. DiLeo confirmed that she discussed with the patient that there was a possibility that this could have been an intrauterine pregnancy but symptoms supported an ectopic pregnancy. Dr. DiLeo agreed that her medical notes do not reflect enough detail of her recommendations and discussions with the patient. Dr. DiLeo explained that after she confirmed it was an intrauterine pregnancy she explained the situation to VG, and confirmed that there was no fetal activity and that this was considered a miscarriage. Dr. DiLeo explained that she has since become more careful when administering MTX and that she waits for the final ultrasound report before moving forward. Dr. DiLeo stated that she is more diligent in her medical records and ensures patients have a complete understanding.

Ms. Chait requested dismissal of this case as Dr. DiLeo met the standard of care.

Board staff clarified that given the report of the emergency department physician the pain had been over a month duration and that Dr. DiLeo's finding of acute significant pain was not documented in the chart.

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

SECOND: Dr. Paul.

The following Board members voted in favor of the motion: Dr. Gillard, Dr. Farmer, Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Dr. Figge, Ms. Jones and Dr. Paul. The following Board members were absent: Ms. Bain and Ms. Jones. VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

Dr. Figge opined that Dr. DiLeo adequately explained her medical records and understanding of the difficult situation. Dr. Figge opined that this case does not rise to the level of discipline and that an Advisory Letter for tracking purposes may be appropriate.

MOTION: Dr. Figge moved to issue an Advisory Letter for failure to rule out a diagnosis of ectopic pregnancy when abnormal gestation is questioned by performing repeat ultrasound studies and serial HCG tests. While the licensee has demonstrated substantial compliance through rehabilitation or 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: Dr. Krahn.

Dr. Bethancourt opined that although the decision was not correct there was no neglect in this case. Dr. Gillard noted that abdominal pain is considered an ectopic pregnancy until proven otherwise. Dr. Krahn noted that the licensee has taken mitigating steps to prevent this situation from occurring again.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

2. MD-18-0339A, SCOTT G. EDWARDS, M.D., LIC. #48056

Dr. Edwards was present with counsel Scott King.

Board staff summarized that on April 11, 2018, the Board received a report from a Hospital disclosing that Dr. Edwards was asked and agreed to refrain from practice after he left the hospital while he had a patient in the operating room. The report indicated that

Dr. Edwards left a fellow and resident to complete the operation in violation of his Stipulation Agreement with the Hospital. The Board issued an Advisory Letter in 2017 (case MD-16-1333A) to Dr. Edwards for a similar incident at which time he voluntarily participated in the ProBE program by CPEP as remediation. The MC who reviewed this case found that Dr. Edwards fell below the standard of care by leaving the operating room and by failing to make arrangements for another orthopedic surgeon to be present in the operating room when he had to leave.

Dr. Edwards noted that the first occurrence was due to arrogance however; in this case he was left in a tough situation with his children. Dr. Edwards explained that the review committee understood the situation but reprimanded him and he continues to follow the stipulations of the agreement. Dr. Edwards reported that he has completed a fitness for duty evaluation as part of the reprimand.

During questioning, Dr. Edwards informed the Board of the parts of the procedure he performed and was present for. Dr. Edwards agreed that this was a complex patient with a difficult history but noted that this was not a complex procedure. Dr. Edwards explained that he planned for a two hour time period for the case and the delay was reported at 15 minute increments which contributed to the lack of time to develop a backup plan for his children. Dr. Edwards stated that he has learned from this event and has implemented preventative measures to avoid the situation from occurring again. Dr. Edwards agreed that a sense of urgency and rushing is not good patient care. Dr. Edwards explained that he did not understand the MC's finding of why his fellow should have dictated when fellows should not dictate records.

Dr. Krahn commented that this scenario is not unheard of in a physician's life and that it is the physician's responsibility to have contingencies in place.

Dr. Edwards explained his thought process during the delay and the steps he should have taken at the time. Dr. Edwards' stated that going forward he has removed himself from childcare when he is scheduled for surgical days. Dr. Edwards explained his standard dictation practice.

In closing, Mr. King noted that the MC agreed that the fellow was capable to perform the surgery and that there was no patient harm. Dr. Edwards spoke to the patient and the fellow the next day to discuss the procedure and what had occurred. Mr. King requested the issuance of an Advisory Letter.

Board staff noted that per the surgical nurse's note the fellow's procedure duration was one hour and nineteen minutes and the language in the informed consent agreement.

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

SECOND: Dr. Krahn.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

Dr. Farmer opined that CME is not necessary. Dr. Farmer opined that due to the previous Advisory Letter, poor decisions, poor time management and a lack of commitment to the patient, a Letter of Reprimand is warranted.

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

SECOND: Dr. Krahn.

Dr. Krahn noted that although it may be challenging, physicians must have contingency planning in place to balance work and personal responsibilities. Dr. Farmer stated that this matter must be taken seriously and must not occur again.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

3. MD-18-0429A, FLOYD E. TRINIDAD, M.D., LIC. #33162

Dr. Trinidad was present with counsel Steven Perlmutter. Dr. Monica Faria addressed the Board during the Public Statements portion of the meeting.

Board staff summarized that the Board initiated the case after receiving notification from the Board's Physician Health Program ("PHP") Contractor that Dr. Trinidad tested positive for alcohol in violation of his Stipulated Rehabilitation Agreement ("SRA"). Dr. Trinidad's SRA was to terminate in January 2019, and the PHP Contractor has recommended that Dr. Trinidad's monitoring be extended for an additional two years.

In opening, Mr. Perlmutter stated that Dr. Trinidad had a minor slip which he admitted to. Dr. Trinidad has remained sober for the past nine months and has met all the required terms of the interim consent agreement. Mr. Perlmutter requested that the Board not impede the physician's continued success by placing him on Probation. Mr. Perlmutter requested that the Board reinstate the SRA and not issue disciplinary action. Mr. Perlmutter noted that Dr. Trinidad has lost his Board certification with the American Board of Family Medicine due to the Interim Practice Restriction. Mr. Perlmutter requested that any final Board order reflect modified language in order to allow him to seek reinstatement of his Board certification.

During questioning, Dr. Trinidad stated that he understood the terms of the SRA which he violated. Dr. Trinidad explained the events that occurred on the day that led to his consumption of alcohol. Dr. Trinidad explained when he contacted Dr. Sucher about his positive test result and went in to discuss the occurrence. Dr. Trinidad informed the Board of the original complaint that resulted in the SRA.

Mr. Perlmutter reiterated that Dr. Trinidad is now in recovery and has a positive support group in place to utilize when in a difficult situation.

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

SECOND: Dr. Paul.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

The Board entered into Executive Session at 10:01 a.m.

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

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

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

SECOND: Dr. Farmer.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

Dr. Krahn acknowledged the physician's treatment and compliance. Dr. Krahn noted that Dr. Trinidad missed the opportunity to utilize resources available to him when in a difficult situation which resulted in the violation. Dr. Krahn expressed concern of the quality of a two year monitoring duration as it did not prevent the relapse. Dr. Krahn agreed with recommendation for a Letter of Reprimand and Probation to provide additional help and monitoring to allow the physician to practice safely.

MOTION: Dr. Krahn moved for a draft Findings of Fact, Conclusions of Law and Order for Letter of Reprimand with Two Year Probation retroactive to September 21, 2018, to participate in PHP with terms consistent with the PHP Contractor's recommendations. Once the physician has complied with the terms of Probation, he may petition the Board to request termination.

SECOND: Dr. Farmer.

Dr. Farmer noted the Board's history with taking a confidential order seriously and Board policy that a violation results in a public order. Dr. Farmer requested that Board staff look into the Order's language and how it affects Board certification. Dr. Krahn opined that the Order's wording is to protect the public and that the American Board of Family Medicine may need to evaluate its own approach.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

E. RESCIND REFERRAL TO FORMAL HEARING AND ACCEPT ADVISORY LETTER AND NON-DISCIPLINARY CONTINUING MEDICAL EDUCATION PROPOSED CONSENT AGREEMENT

1. MD-18-0726A, SUBODH S. SHROFF, M.D., LIC. #37588

Dr. Shroff was not present. AAG Elizabeth Campbell was present to provide Independent Legal Advice. AAG Anne Froedge was present on behalf of the State.

Ms. Froedge summarized that the physician was summarily suspended and referred to formal hearing in 2018. There was a lengthy continuance due to the physician's vacation out of the country. Dr. Shroff contacted Ms. Froedge and entered into the proposed consent agreement. Dr. Shroff once again contacted Ms. Froedge informing that he did not want to participate in probation. Dr. Shroff subsequently signed a consent agreement for Voluntary Surrender of License.

Dr. Gillard commented that this was a complicated case where the physician's ability to safely practice was questioned. There was discussion regarding the issuance of an Advisory Letter with CME, however; the licensee has signed a consent agreement for Voluntary Surrender of License.

In response to a Board member inquiry, AAG. Campbell informed the Board that they can approve the consent at this time. The surrender would be a part of the licensee's file if he were to reapply.

MOTION: Dr. Krahn moved to rescind the referral to Formal Hearing and accept the consent agreement for surrender of license.

SECOND: Dr. Figge.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

ACTION ON CASE(S)

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

1. MD-16-1104A, MD-17-0272, MD-17-0339A, MD-17-0402A, ABDULKADIR A. HOURANI, M.D., LIC. #25270

Dr. Gillard summarized that the Board moved to issue a Decree of Censure and Probation with Proctor at the December 2018 meeting.

MOTION: Dr. Figge moved to approve the Draft Findings of Fact, Conclusions of Law and Order for Decree of Censure and Two Year Probation. Within six months, complete no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding physician communication. Dr. Hourani shall be required to utilize a Board-approved proctor to oversee his patient and procedure selection as well as follow up care, at his expense, for the duration of probation. After one year, Dr. Hourani may petition the Board to request that the probation be terminated. The request to terminate probation shall be accompanied by documentation from the proctor supporting the termination of probation. Prior to requesting termination of the Board's Order, Dr. Hourani shall be required to undergo the recommended re-evaluation to determine his fitness for duty.

SECOND: Dr. Krahn.

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

VOTE: 8-yay, 0-nay, 0-abstain, 1-recuse, 2-absent.

MOTION PASSED.

2. MD-17-0348A, HERMAN PANG, M.D., LIC. #24944

Dr. Gillard summarized that the Board moved to issue a Letter of Reprimand and Probation for CME in ethics at the December 2018 meeting. Dr. Gillard noted that counsel has requested a modification as PACE has been completed.

Ms. Smith clarified that the decision before the Board is whether to adopt the Findings of Fact Conclusion of Law and Order as drafted for the Letter of Reprimand and Probation that the Board voted to impose at the December meeting. The request for modification of Probation can be made in a motion for rehearing or review once the Order is adopted. The Board can consider today the request for modification of the language regarding "vein treatment" as it was part of the Board discussion at the time of the interview.

MOTION: Dr. Farmer moved to approve the Draft Findings of Fact, Conclusions of Law and Order for Letter of Reprimand and Two Year Probation, with the minor modification to the chart review provision as requested by counsel. 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; and, no less than 15 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding ethics. The CME hours shall be in addition to the hours required for license renewal. Within thirty days of completing the Board ordered CME, the physician shall enter into a contract with a Board approved monitoring company to conduct monthly chart reviews at a minimum of ten per month at his expense. The patient reviews shall consist of vascular care. The chart reviews shall commence upon proof of successful completion of the CME and shall involve current patients' charts. Once the licensee has complied with the terms of Probation, he must affirmatively petition the Board to request that the Probation be terminated after one year of consecutive favorable chart reviews.

SECOND: Dr. Figge.

ROLL CALL VOTE: The following Board members voted in favor of the motion: Dr. Gillard, Dr. Farmer, Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Dr. Figge,

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

OTHER BUSINESS

G. APPEAL OF EXECUTIVE DIRECTOR REFERRAL TO FORMAL HEARING

1. MD-16-1012A, MD-16-1248A, MD-17-0092A, MD-17-0388A, MD-17-0719A, STEVE FANTO, M.D., LIC. #21415

Dr. Fanto was present with counsel Paul Giancola. Michael Loes, MD addressed the Board during the Public Statements portion of the meeting on behalf of the physician. AAG Elizabeth Campbell was present as Independent Legal Advisor, and AAG Anne Froedge appeared on behalf of the State.

Board staff summarized that this matter consisted of five cases alleging inappropriate prescribing. At the conclusion of the investigations, Board staff recommended that Dr. Fanto be offered the opportunity to voluntarily surrender his license, and if not accepted, that the matter be forwarded to formal hearing with a recommendation to revoke. Dr. Fanto declined the consent agreement for surrender and the Executive Director referred the cases to formal hearing. Dr. Fanto obtained new counsel and appealed the Executive Director's referral. Through counsel, Dr. Fanto requested the issuance of a Letter of Reprimand and Probation. Dr. Fanto had signed a consent agreement for an Interim Practice Restriction on July 11, 2017 and his DEA registration was revoked on December 31, 2018.

Board staff briefly summarized the five cases.

In case MD-16-1012A a complaint was received from a Health Insurer's Special Investigations Unit reporting that Dr. Fanto had been identified as prescribing excessive controlled substances and inappropriate combinations of controlled substances. The MC reviewed the care of three patients and identified deviations in all patients, including high dose opioid prescribing in patient MS, increasing opioid doses without performing meaningful reassessments in patient GH and failing to inform a patient of the cardiac risks of methadone.

In case MD-16-1248A a complaint was received from a Health Insurer's Special Investigations Unit reporting that Dr. Fanto had prescribed Subsys for treatment of pain in two patients without cancer. The MC identified deviations in the care of both patients, including initiating off-label Subsys prescriptions at high doses, using high dose opioids and benzodiazepines to treat fibromyalgia and arthritis and by failing to note a rationale warranting the prescription of benzodiazepines in combination with high dose opioids.

In case MD-17-0092A the Board was notified of a malpractice settlement regarding Dr. Fanto's treatment of AS alleging improper prescribing of pain medications, with poly-drug toxicity resulting in the patient's death. The MC found deviations from the standard of care including the prescribing of injectable Demerol for unsupervised self-administration in spite of noncompliant behaviors and failure to address noncompliant drug use.

In case MD-17-0388A the Board received information from the Pharmacy Board reporting that Dr. Fanto's CSPMP profile was concerning for the volume and type of controlled substance prescribing. Two MC's reviewed the care and treatment of three patients and found deviations in all three patients, including failure to perform an adequate initial evaluation, failure to address aberrant UDS, initiating off-label Subsys at high dose, reintroducing Subsys after one year without use at a high dose and failing to provide instructions for safe use, storage and disposal.

In case MD-17-0719A the Board received a complaint regarding Dr. Fanto's care of patient VR alleging inappropriate prescribing of Subsys. The MC identified deviations from the standard of care including reliance on high dose opioids with unjustified

escalations in the absence of a coordinated multidisciplinary treatment plan, failure to coordinate care with another provider who was prescribing benzodiazepines and stimulants, failure to initiate Subsys at the lowest dose and for restarting Subsys at a higher dose two months after the patient was intolerant to the initial trial.

Ms. Froedge, on behalf of the State, stated that these five cases of inappropriate prescribing of potentially dangerous medications were referred to Formal Hearing. Ms. Froedge stated that at this point the State takes no position regarding the referral, but is able to move forward at hearing should the Board deny the request for appeal.

Mr. Giancola stated that he respected the decision for the referral due to the serious matter of the allegations. Mr. Giancola stated that the goal is for the Board to allow Board staff to consider new information from Dr. Fanto and negotiate a consent agreement that will allow Dr. Fanto to continue to practice. Mr. Giancola acknowledged that the opioid prescribing guidelines and statutes have changed substantially and that Dr. Fanto accepts the concerns of the MC and that he was practicing outside the guidelines of opioid prescribing. Mr. Giancola stated that Dr. Fanto accepted the seriousness of the allegations but opined that revocation is an extreme action. Mr. Giancola reported that the consumer fraud case filed by the Attorney General's Office has been dismissed. Mr. Giancola reported that Dr. Fanto has never been previously disciplined by this Board and was Board Certified in Pain Management up to his DEA revocation. Mr. Giancola explained that going forward; Dr. Fanto wishes to utilize his skills in physiatry and pain management to treat patients without prescribing medications. Mr. Giancola requested that the Board consider offering a Decree of Censure with a controlled substance prescribing restriction and Probation for CME and chart reviews.

MOTION: Dr. Farmer moved to deny the appeal and refer to formal hearing.

SECOND: Dr. Paul.

Dr. Farmer appreciated the physician's stated desire to however; he opined that he found a number of aggravating factors in these cases. Dr. Farmer expressed concern for the egregious prescribing and drug interactions at high dosages especially for a physician trained in anesthesiology. Dr. Farmer commented that there has been a long-standing pattern regarding controlled substance prescribing, medical record keeping and inadequate evaluations of patients. Dr. Farmer opined that Dr. Fanto's practice lacks insight and understanding. Dr. Gillard commented that the Board's goal is to protect the public but with restrictions in place, this may be resolved with a consent agreement. Dr. Krahn noted that a formal hearing provides the opportunity for the cases to be further examined and considered. Dr. Krahn expressed concern for the lack good medical judgement, not just prescribing patterns. Dr. Farmer noted that there has also been a concern of ethical judgment.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

H. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-16-1093A, ETHAN M. PHILPOTT, M.D., LIC. #51541

Dr. Monica Faria addressed the Board during the Public Statements portion of the meeting.

Board staff noted that there is confidential material in this case.

Dr. Gillard noted that Dr. Volfson is in support of early termination and Drs. Faria and Sucher opined that although there has been compliance, not enough time has passed to request early termination.

MOTION: Dr. Figge moved for the Board to enter into Executive Session pursuant to A.R.S. § 38-431.03(A)(2) and (3).

SECOND: Dr. Krahn.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

The Board entered into Executive Session at 11:00 a.m.

The Board returned to Open Session at 11:13 a.m.

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

Dr. Krahn commented that this is a challenging situation with two different viewpoints that are challenging to reconcile. Dr. Krahn opined that quality versus quantity of treatment is a determining factor. Dr. Krahn opined that this physician is doing well at this time and would continue to benefit from additional monitoring. Dr. Krahn recommended that the Board entertain an early termination request in the future. Dr. Figge agreed that Dr. Philpot doesn't have to necessarily complete the 5 year timeframe, but at this point it is too early to terminate.

Dr. Krahn commented that a current evaluation would be useful in determining the current state of the participant.

MOTION: Dr. Figge moved to deny the physician's request to terminate his March 13, 2017 CONFIDENTIAL Board Order.

SECOND: Dr. Paul.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

2. MD-14-0019A, MARK G. WEBB, M.D., LIC. #19868

Dr. Gillard summarized that that Dr. Webb was issued a Letter of Reprimand and Probation with the possibility to request termination after two successful chart reviews.

Board staff clarified that the Board's order required a medical record keeping course and the follow up program which Dr. Webb has completed.

MOTION: Dr. Figge moved to grant the physician's request to terminate his September 10, 2015 Board Order.

SECOND: Dr. Paul.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

3. MD-13-1285A, DALE N. PAYNE, M.D., LIC. #28025

Dr. Gillard summarized the Board issued a Letter of Reprimand and Probation retroactive to 2014. Dr. Sucher reported that the physician has been compliant and that he supports termination.

MOTION: Dr. Figge moved to grant the physician's request to terminate his February 5, 2015 Board order.

SECOND: Dr. Krahn.

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

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

1. MD-18-0983A, DEAN R. SILVER, M.D., LIC. #38223

Attorney Stephen Myers addressed the Board during the Public Statements portion of the meeting.

Dr. Gillard summarized the complaint is regarding billing issues and quality of care concerns. The case was tabled at the January meeting due to counsel's inability to complete his public statement after technical difficulty. Dr. Gillard noted that the Executive Director requested that the Board assert jurisdiction. Dr. Krahn commented that the physician holds an allopathic license and should still be held accountable to allopathic standards of care.

MOTION: Dr. Krahn moved to assert jurisdiction over the case. In the event that the Homeopathic Board asserts jurisdiction as well, initiate arbitration proceedings.

SECOND: Dr. Bethancourt.

Dr. Figge commented that although the physician practices homeopathic medicine the AMB may be better equipped to investigate. Dr. Krahn noted that the physician made the decision made to retain an allopathic license and patient care is a concern.

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

VOTE: 9-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. Farmer moved to adjourn the meeting.

SECOND: Dr. Figge.


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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

The meeting adjourned at 11:27 AM




Patricia E. McSorley, Executive Director