



## **Arizona Medical Board**

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### **FINAL MINUTES FOR REGULAR SESSION MEETING**

**Held on Monday, October 7, 2019 and Tuesday, October 8, 2019**

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

#### ***Board Members***

R. Screven Farmer, M.D., Chair  
James M. Gillard, M.D., M.S., F.A.C.E.P., F.A.A.E.M., Vice-Chair  
Edward G. Paul, M.D., Secretary  
Jodi A. Bain, M.A., J.D., LL.M.  
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.

**Monday, October 7, 2019**

### **GENERAL BUSINESS**

#### **A. CALL TO ORDER**

Chairman Farmer called the meeting to order on October 7, 2019 at 8:02 a.m. and read aloud the Board's Mission Statement, "To protect public safety through the judicious licensing, regulation and education of all allopathic physicians."

#### **B. ROLL CALL**

The following Board members were present on October 7, 2019: Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Chairman Farmer, Dr. Figge, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board members were absent: Ms. Bain and Dr. Connolly.

Present among Board staff on October 7, 2019 include: Patricia McSorley, Executive Director; Kristina Fredericksen, Deputy Director; Carrie Smith, Assistant Attorney General (AAG); AAG Anne Froedge, William Wolf, M.D., Chief Medical Consultant; Erinn Downey, Investigations Assistant Manager; Amy Skaggs, Staff Investigational Review Committee (SIRC) Coordinator; Michelle Robles, Board Operations Manager; and, Andrea Cisneros, Minutes Administrator.

#### **C. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA**

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

#### **D. EXECUTIVE DIRECTOR'S REPORT**

There was no report provided to the Board under this item.

#### **E. CHAIR'S REPORT**

The Board discussed different ways within its authority to adjudicate cases, including splitting into committees to review cases as well as disciplinary and non-disciplinary case resolution options. The Board instructed staff to agendize this topic for further discussion at a future Board meeting.

## F. LEGAL ADVISOR'S REPORT

- Update regarding subpoena to AMB in *Tripati v. Corizon Inc. et. al.*, US District Court case 4:18-cv-00066-RM

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

**SECOND:** Ms. Jones

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

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

**MOTION PASSED.**

The Board entered into Executive Session at 5:04 p.m.

The Board returned to Open Session at 5:17 p.m.

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

## LEGAL MATTERS

### G. FORMAL INTERVIEWS

1. MD-19-0050A, ISSADA THONGTRANGAN, M.D., LIC. #45920

Dr. Thongtrangan was present with counsel, Mr. Robert Milligan. Board staff summarized that the Medical Consultant (MC) found that Dr. Thongtrangan deviated from the standard of care in his failure to call and utilize a transfer agreement he had established with another spine surgeon approximately 28 months prior to the incident in question. The Board previously considered SIRC's recommendation for an Advisory Letter and found that the matter warranted disciplinary action. Dr. Thongtrangan was offered a disciplinary Consent Agreement and declined, electing to appear before the Board for a Formal Interview.

In his opening statement to the Board, Dr. Thongtrangan accepted responsibility for failing to recall his coverage agreement and asked that the Board consider his surgery statistics for the past three years, which he stated would show that he has had very few complications that required surgical interventions. He explained that there was a breakdown in communication between himself and his staff, and stated that this has been addressed by fixing the answering service and establishing a second coverage agreement with another surgeon. Dr. Thongtrangan added that the patient is currently doing well and that he continues to see the patient on a regular basis. Mr. Milligan also addressed the Board, stating that none of the physicians who reviewed the case have offered the opinion that Dr. Thongtrangan deviated from the standard of care with regard to the performance of surgery, while one reviewer opined that the physician failed to recall his coverage agreement resulting in a delay in patient care. Mr. Milligan stated that their expert reviewers disagreed with these findings and that there was no patient harm as a result of that delay in care.

During the Board's questioning, Dr. Thongtrangan explained that his coverage agreement was established in 2016, and that he kept in contact with the ER team throughout the patient's ER course. Board staff informed the Board that Dr. Thongtrangan's prior probation with this Board was terminated only months prior to the incident in question in this case, and stated that it would be easy to forget his transfer agreement as he was still dealing with repercussions from the Board's prior concerns. During its deliberations, the Board discussed whether there was a finding of unprofessional conduct in this case. Board members found it mitigating that Dr. Thongtrangan was in communication with the ER team caring for the patient, and discussed whether any harm came to the patient from a delay in care. The Board considered the physician's lack of a contingency plan in the case, and considered whether there had been a violation of statute as a result.

**MOTION:** Dr. Bethancourt moved for dismissal.

**SECOND:** Dr. Gillard

Dr. Beyer spoke against the motion, and stated that he supported SIRC's recommendation for an Advisory Letter to resolve the case. Dr. Krahn proposed that the Board use this opportunity to advise the physician that it is necessary to have a contingency plan in place in the event that a patient becomes unstable. Dr. Figge stated that he supported dismissal. Dr. Gillard also spoke for the motion, stating that he found the physician acted in an extremely good manner.

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

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

**MOTION PASSED.**

**2. MD-18-0834A, GABRIELLE J. GOODRICK, M.D., LIC. #22811**

Dr. John Elliott addressed the Board during the Public Statements portion of the meeting on behalf of Dr. Goodrick. Dr. Goodrick was present with counsel, Mr. Robert Milligan. Board staff summarized that this matter involved two patients, KW and RG. Both patients presented to the physician for termination of pregnancy and deviations from the standard of care were identified in both cases. Specifically, the MC found that in the case of KW, Dr. Goodrick failed to consider heavy bleeding when question of placenta accreta had been entertained. In the matter involving patient RG, the MC found that Dr. Goodrick failed to communicate and work with PPA in proper management of the patient.

In her opening statement to the Board, Dr. Goodrick explained that she performed a D&E for patient KW to resolve her bleeding and when that was unsuccessful, she facilitated the transporting of KW to the ER and communicated with the ER physician regarding KW's clinical information relevant to her care. Dr. Goodrick stated that she did not abandon patient RG, and explained that this patient was transferred to PPA for termination of pregnancy and hysterectomy. Dr. Goodrick stated that she later became aware that the patient's procedure was canceled as PPA had determined that she was at low risk for placenta accreta. Mr. Milligan addressed the Board stating that any miscommunication concerns identified in the case was within PPA and the hospital, and not with the physician. He asked the Board to consider the clinical facts and dismiss the case.

In the matter of KW, Dr. Goodrick stated that the patient presented requesting termination of pregnancy. She explained that the patient was in route to her office when her friend called the physician to report that she was experiencing heavy bleeding. Dr. Goodrick stated that she instructed the patient to present to her office as she felt it was the closest facility to the patient and she was the best person to manage the patient's care. She stated a D&E was performed within five minutes of KW's arrival and when it did not resolve the bleeding, she stabilized the patient, facilitated ER transfer, and communicated the clinical information to the ER physician. In the case of patient RG, Dr. Goodrick stated that she had communicated with the physician from PPA and she had no reason to think that PPA would not care of RG and her needs. She added that she felt her care of this patient was appropriate. Dr. Goodrick informed the Board that she believed the case pivoted on the radiology report that was not accurate in identifying the patient's risk for placenta accreta, and reported that currently all ultrasounds are done by perinatologists to identify any concerns.

The Board discussed whether there was a finding of unprofessional conduct in the case. Dr. Figge opined that given Dr. Goodrick's testimony, he found that her response was reasonable in having the patient present to her clinic rather than the ER. He stated that he did not find a violation of unprofessional conduct and spoke in favor of dismissal.

**MOTION: Dr. Figge moved for dismissal.**

**SECOND: Dr. Paul**

Dr. Krahn spoke in favor of the motion, stating that the physician's testimony was very helpful in explaining her decision making in the cases. Dr. Krahn stated it is clear that Dr. Goodrick knew these patients and was trying to provide them adequate care. Dr. Paul also spoke for the motion and stated that it appeared the physician practices conscientious care and cares for her patients to the best of her ability. Dr. Farmer stated that he remained concerned regarding the physician's instructions for KW to present to her office and not the ER when she had signs of hemorrhagic shock. Dr. Farmer recognized that there were mitigating factors identified as well as other precautions that were taken.

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

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

**MOTION PASSED.**

## **H. FORMAL INTERVIEWS**

### **1. MD-16-0287A, DANIEL I. SHAPIRO, M.D., LIC. #20700**

Dr. Shapiro was present with counsel, Mr. Jay Fradkin. Board staff summarized that the MC found Dr. Shapiro deviated from the standard of care in this case by failing to properly perform a Hi-Def VASER procedure and medical recordkeeping concerns were also identified.

Dr. Shapiro stated that the case was complicated due to the advanced technique utilized to perform this very sophisticated procedure. He reported that since the incident in question, he has modified the procedure and has not had any additional issues. Dr. Shapiro added that the patient signed a well-detailed informed consent form for the procedure performed. Mr. Fradkin also addressed the Board and directed them to the language contained in the consent form signed by the patient, which referenced possible complications from the planned procedure. He added that the physician has mitigated the situation by evolving and changing his practice.

During questioning by Board members, Dr. Shapiro explained the difference between regular liposuction and ultrasonic liposuction. The Board noted that at the time the procedure in this case was performed, the technique used was relatively new. Dr. Shapiro informed the Board that when he encountered the complication, he reached out to his mentors for advice on how to proceed and to determine what could have caused the complication. The Board noted that concern was raised regarding Dr. Shapiro's online advertising. Dr. Shapiro stated he takes responsibility for the oversight and that the issues have been addressed since brought to his attention in 2018.

The Board members entered deliberations and discussed whether a statutory violation occurred in this case. Dr. Gillard spoke in favor of dismissal, noting that the physician has made changes to his practice and informed consent was obtained for the procedure.

**MOTION: Dr. Gillard moved for dismissal.**

**SECOND: Dr. Figge**

Chairman Farmer expressed his concerns regarding the issues identified in this case involving informed consent and the website advertising. He stated these two issues are especially important in an area of practice where procedures are elective. Dr. Figge stated that the physician should have been more diligent about his online advertising. Dr. Figge commented that patients are electing to proceed with the procedures based on examination and discussion with the physician, not just the online advertisements.

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

**The following Board member abstained: Chairman Farmer. The following Board members were absent: Ms. Bain and Dr. Connolly.  
VOTE: 8-yay, 0-nay, 1-abstain, 0-recuse, 2-absent.  
MOTION PASSED.**

**2. MD-18-0301A, MARZBAN M. HAYYERI, M.D., LIC. #28018**

Attorney Daniel Kolomitz addressed the Board during the Public Statements portion of the meeting on behalf of complainant LM.

Dr. Beyer stated that he knows Dr. Hayyeri, but it would not affect his ability to adjudicate the case. Dr. Hayyeri was present with counsel, Ms. Kathleen Nelson. Board staff summarized that patient LM presented to Dr. Hayyeri for vaginal prolapse and difficulty emptying her bladder. During the patient's planned procedure, labioplasty and clitoral hooding were performed; however, clitoral hooding was not part of the informed consent form signed by the patient. Board staff reported that the physician's chart notes also appeared to be lacking.

Dr. Hayyeri addressed the Board in his opening statement, explaining that he has been in practice since 1999 and specializes in urology. He stated LM was referred to him in November of 2016 with a history of bladder prolapse and difficulty emptying her bladder. Dr. Hayyeri stated that he was not afforded the opportunity to rectify the situation as the patient did not return for further follow up. He added that he has made changes to his office practices in terms of documentation and surgical consent. Ms. Nelson also addressed the Board and stated that the outcome of surgery is not what Dr. Hayyeri wanted for his patient. She stated that complications can and do occur absent negligence, and that the complications suffered by the patient were recognized risks of the procedures. Ms. Nelson reported that Dr. Hayyeri regrets that he did not include the possibility of clitoral unhooding on the surgical consent form, and that he did not document more details regarding his discussion with LM about her complaints of sexual dysfunction in addition to the evaluation and treatment plan.

The Board observed that there is currently a medical malpractice claim pending regarding the patient care involved in this case and voted to enter into Executive Session to receive legal advice.

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

**SECOND: Dr. Paul**

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

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

**MOTION PASSED.**

The Board entered into Executive Session at 11:45 a.m.

The Board returned to Open Session at 11:45 a.m.

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

The Board discussed whether the physician had a discussion with the patient regarding what was going to be done. Dr. Hayyeri stated that he discussed surgical intervention with the patient after she failed conservative management. He acknowledged that the consent form did not mention the potential for addressing the clitoral hood and reiterated that he has since updated the language contained in his patient consent forms. Dr. Hayyeri further explained to the Board that the issue with the clitoral hood would not be evident until in the operating room and seeing it in person. In closing, Ms. Nelson stated that Dr. Hayyeri regrets that the patient had complications, and stated that the records support that each of the procedures were discussed with the patient. The Board noted that the clitoral procedure is not a standard part of labioplasty.

Dr. Figge stated that he found there was a finding of unprofessional conduct in violation of A.R.S. 32-1401(27)(e) relating to inadequate medical records.

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

**SECOND: Dr. Krahn**

Dr. Figge explained that the physician failed to document the potential for and discussion with the patient regarding the potential for clitoral unhooding in the consent form and the medical records.

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

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

**MOTION PASSED.**

The Board discussed whether there was a finding of unprofessional conduct in violation of A.R.S. 32-1401(27)(r) regarding the standard of care. Dr. Figge recognized that the complications that occurred are known complications of the procedures performed and stated that he believed enough discussion occurred with intent implied and that the care was adequate. He spoke in favor of dismissing the violation of A.R.S. 32-1401(27)(r).

**MOTION: Dr. Figge moved for dismissal of the alleged violation of A.R.S. § 32-1401(27)(r).**

**SECOND: Dr. Paul**

AAG Smith informed the Board on proper procedure in the event that a violation cited by SIRC is not sustained by the Board. Dr. Figge and Dr. Paul withdrew their motion.

Board members considered whether the quality of care violation was substantiated in light of the testimony provided during the Formal Interview. Chairman Farmer commented that while there did not appear to be any malicious intent involved, he stated that he remained concerned regarding the physician's ability to manage the patient's specific needs in this case and shared SIRC's concerns regarding referral. Dr. Figge stated that he shared those same concerns prior to hearing the physician's responses to the Board's questioning.

**MOTION: Dr. Gillard moved for the Board to issue an Advisory Letter for inadequate medical records. 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**

Chairman Farmer spoke against the motion and stated that he remained concerned regarding the quality of care issues identified in this case.

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

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

**MOTION PASSED.**

## I. FORMAL INTERVIEWS

### 1. MD-18-1011A, WILLIAM D. MARTZ, M.D., LIC. #23543

Dr. Paul stated that he knows Dr. Martz professionally, but it would not affect his ability to adjudicate the case. Dr. Martz was present without legal counsel. Board staff summarized that during the course of the Board's investigation, Dr. Martz reported that he brought in pain and/or anxiety medications on several occasions in 2018 for patients suffering unnecessarily and not receiving their medications. According to the physician, the facility was unable or failed to access their emergency medications supply resulting in critically ill patients not getting their medications as ordered. SIRC reviewed the matter and recognized the reported altruistic intentions of Dr. Martz, but stated that this type of dispensing is inappropriate and creates a lack of accountability. For these reasons, SIRC recommended that the physician complete the ProBE course offered by CPEP in addition to the issuance of a Letter of Reprimand.

In his opening statement to the Board, Dr. Martz explained that the nature of the case involved hospice patients who are at the very end of life. He stated that he believes he acted as a reasonable physician would under similar circumstances. The Board noted that the complaint stemmed from a 2018 incident involving Dr. Martz instructing a nurse to take an unopened vial of medicine from a deceased patient to give to another hospice patient. During the Board's questioning, Dr. Martz further explained that at that time, they were in a period of crisis and were receiving numerous complaints from the patients' families regarding delays in patients receiving their medications. Dr. Martz informed the Board that as a result of the issues at the facility, he opened an inpatient hospice facility ran by his own staff. Dr. Martz assured the Board that he has only used the medications from hospice patients to provide to other hospice patients that are dying.

Dr. Martz stated that he was not taking the medications for his personal use and Board members noted that there were no allegations made in this case of narcotic diversion for the physician's personal use. The Board questioned why the facility did not modify its policies and procedures relating to the emergency kits available for use by nursing staff to alleviate the concerns of patients suffering unnecessarily due to delays. Dr. Martz stated that the hospice-nursing home relationship worked for a while, but that the new nursing staff were either not trained or were unwilling to access the emergency kits. He stated there were a lot of problems at the facility, that his attempts to resolve them were unsuccessful, and they elected to not renew their contract with the facility.

Board members observed that Dr. Martz did not document in the pharmacy record where medications were coming from. The physician stated that the documentation as not done as he was not aware of that requirement. In his closing statement to the Board, Dr. Martz stated that he has done everything in his power to ensure that nothing like this happens again. He asked that the Board consider resolving the case with a non-disciplinary sanction and stated that his focus is now and has always been to care for his patients and protect them from harm.

Dr. Beyer stated he found that there has been unprofessional conduct and spoke in support of SIRC's recommendation to sustain violations of A.R.S. § 32-1401(27)(a), (e), and (II).

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

**SECOND: Dr. Krahn**

Chairman Farmer stated that there were serious risks to patient safety in this case and stated that this appeared to be a very uncontrolled process even by pre-opioid crisis standards. He stated that he supported sustaining a violation of A.R.S. § 32-1401(27)(r) in addition to the statutory violations included in the motion as he believed the basic handling of medications was not adhered to in this case and there were potential pitfalls for medications to end up where they should not be. Dr. Krahn stated there appeared to

be major system problems and noted the risk of patients going without their medications for a prolonged period of could results in significant pain and adverse consequences.

Dr. Paul spoke for the motion stating that there was no patient harm in this case and he recalled the physician's testimony regarding changes made to his practice and within his organization. Ms. Jones echoed Chairman Farmer's comments regarding the standard of care issues identified in the case. She stated she believed the physician acted in an altruistic manner, but that it remains unclear which patients were given what medications due to the lack of proper medication tracking.

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

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

**MOTION PASSED.**

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

**SECOND: Chairman Farmer**

Dr. Beyer stated he agreed with SIRC's recommendation for a Letter of Reprimand and that he did not find requiring the completion of CME was warranted. Chairman Farmer stated that there are glaring systems issues in this case and also expressed concern regarding the physician's testimony that he is not familiar with the laws related to dispensing and prescribing. He proposed the Board consider requiring the physician to obtain further education in those areas. Dr. Wolf suggested the controlled substances prescribing courses offered by PACE or CPEP, both of which are intensive, in-person CME courses.

Dr. Gillard spoke against issuing discipline in this case, stating that there was no evidence of diversion and the physician appeared to have learned from the case. Dr. Bethancourt also spoke against the motion and stated that an Advisory Letter with Order for Non-Disciplinary CME was warranted. Dr. Krahn requested that the facility be referred to the Department of Health Services as she was concerned regarding the state of the institution from which the physician departed. Dr. Paul spoke against the motion and stated he was in support of a non-disciplinary resolution that included a CME requirement. Dr. Beyer and Chairman Farmer accepted the friendly amendment of adding Probation to complete CME.

**AMENDED MOTION: Dr. Beyer moved for draft Findings of Fact, Conclusions of Law and Order for Letter of Reprimand and Probation. Within six months, complete no less than the 15 hour of Board staff pre-approved Category I CME in an intensive, in-person course regarding controlled substance prescribing. In the alternative, the licensee may also complete an equivalent number of hours of CME in controlled substance prescribing in the setting of a hospice facility if available and pre-approved by Board staff. 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.**

**SECOND: Chairman Farmer**

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

**VOTE: 3-yay, 6-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION FAILED.**

**MOTION: Dr. Krahn moved for the Board to issue an Advisory Letter and Non-Disciplinary CME Order for inappropriate dispensing of controlled substance**



medications and for inadequate medical records. 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. Within six months, complete no less than the 15 hour of Board staff pre-approved Category I CME in an intensive, in-person course regarding controlled substance prescribing. In the alternative, the licensee may also complete an equivalent number of hours of CME in controlled substance prescribing in the setting of a hospice facility if available and pre-approved by Board staff. The CME hours shall be in addition to the hours required for license renewal.

**SECOND: Dr. Bethancourt**

Dr. Gillard spoke against the motion and stated he would support the issuance of an Advisory Letter without a requirement to complete CME. Dr. Krahn spoke for the motion, stating that more in depth knowledge is necessary and would be advance by formal CME. Dr. Bethancourt agreed with Dr. Krahn's comments and stated that it needs to be clear to all physicians and medical students that the practitioners need to follow the laws and regulations that govern the practice of medicine in states where they hold licensure. Dr. Beyer spoke in favor of the motion and stated that CME is required as a similar incident could occur in the future due to a lack of understanding of the law.

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

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

**MOTION PASSED.**

**2. MD-19-0322A, JOYCE P. CHANG, M.D., LIC. #45403**

Dr. Chang was present without legal counsel. Board staff summarized that the case was initiated after receipt of a Disciplinary Alert Report indicating that Dr. Chang was disciplined by another jurisdiction in the form of a reprimand with requirements to complete CME and pay a fine in the amount of \$5,000. The allegations in the underlying case related to prescriptions written by practitioners covering Dr. Chang's patients while she was out of the country, utilizing her signature and making it appear as if she were writing the prescriptions. Board staff confirmed that the fine was paid and the CME has been completed.

Dr. Chang explained to the Board that she was gone from her practice for a period of three weeks and had mid-level providers cover her patients. The problem that was raised involved prescriptions that should have had her name crossed out and the prescriber's information documented in place of it. She stated that because the staff utilized the EMR system to send the prescriptions directly to the pharmacy, this made it appear as though she was the one prescribing for those patients.

The Board noted that Dr. Chang has held medical licensure in Nevada for ten years and has been licensed in Arizona for five years. Dr. Chang reported that she has not and does not have plans to practice in Arizona, but obtained her licensure for the purposes of being proactive. Board members observed that the Nevada investigation found that Dr. Chang charged for services not rendered. Dr. Chang explained that she used Locum Tenens physicians and mid-level providers that billed under her practice and that there was a patient that alleged she charged for services not rendered since she was not seen by Dr. Chang. In her closing statement, Dr. Chang stated that she should have attended the Nevada Board proceedings and felt that she was treated unfairly.

Dr. Paul stated that it was clear that the physician was sanctioned by another jurisdiction and that he agreed with SIRC's recommendation relating to unprofessional conduct.

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

**SECOND: Dr. Beyer**

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

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

**MOTION PASSED.**

Dr. Paul commented that there was nothing to gain by issuing another disciplinary action against this physician and stated that an Advisory Letter was appropriate to resolve the case.

**MOTION: Dr. Paul moved for the Board to issue an Advisory Letter for action taken against the licensee 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. Gillard**

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

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

**MOTION PASSED.**

## **J. FORMAL INTERVIEWS**

### **1. MD-18-1195A, ROBERT B. LUFKIN, M.D., LIC. #34976**

Dr. Lufkin was present without legal counsel. Board staff summarized that the case was initiated after receipt of a Disciplinary Alert Report indicating that Dr. Lufkin was sanctioned by the Michigan Board in the form of probation with a requirement to complete CME and as also assessed a fine. The Board noted that the Michigan matter involved the physician's failure to comply with their Board's CME requirements for license renewal as well as the physician's failure to respond to the Michigan Board's investigation. Board staff further summarized that Dr. Lufkin has established a pattern of his failure to timely respond to Board requests in that he failed to respond to Board staff's inquiry regarding his failure to respond to the Michigan Board, and it took multiple attempts and requests by staff to obtain the CME hours completed to satisfy the Michigan Board's Order.

Dr. Lufkin stated that he has been in practice for 37 years, that he considers CME to be a valuable part of the practice of medicine, and that he takes it very seriously. He stated that he holds licensure in 24 states and has not had any issues completing the annual CME requirements for license renewal. Dr. Lufkin explained that in the Michigan Board matter that occurred in 2017, the Board had not received his CME documentation for the hours completed that year and subsequently filed an administrative complaint against him for failure to complete the required CME or provide documentation to that affect. He reported that his office procedures and methods were reviewed as a result of the Michigan matter, and changes were implemented in his current practice, including ensuring that his contact information is up to date.

The Board discussed the communication issues identified in this case. Dr. Lufkin reported that he did not receive some of the Board's correspondences and reiterated the changes made to his practice. Dr. Gillard noted that Board staff reported the physician has been compliant with Arizona's license renewal requirements relating to CME hours. The Board noted that Dr. Lufkin practices in the field of teleradiology, and that he reported to currently work actively in at least 10 of the 24 states where he holds licensure. Dr. Lufkin stated that he has learned from the experience and has taken corrective action to prevent a similar future occurrence.

Ms. Jones stated that she found there was unprofessional conduct that occurred in this case in that the licensee was sanctioned by another jurisdiction and initially failed to cooperate with the Board's investigation.

**MOTION: Ms. Jones moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(p) and (ee) for reasons as stated by SIRC.**

**SECOND: Dr. Paul**

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

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

**MOTION PASSED.**

Ms. Jones commented that the physician appeared to accept responsibility for the administrative issue identified in the case and recognized that procedural changes have been made to his current practice. However, Ms. Jones stated that she also recognized that it took additional time and effort for staff to locate the physician, and spoke in support of SIRC's recommendation to impose a Civil Penalty.

**MOTION: Ms. Jones moved for draft Findings of Fact, Conclusions of Law and Order for \$1,500 Civil Penalty. Dr. Lufkin shall pay a Civil Penalty within ninety days via certified funds in the amount of \$1,500.**

**SECOND: Dr. Krahn**

Dr. Gillard spoke against the motion and stated that there appeared to be some issues in the case that were out of the physician's control. He stated he did not find that this matter rises to the level of disciplinary action. Dr. Beyer spoke for the motion, stating that the case rises to the level of discipline based on the fact that it took a second instance of failure to respond to a Board's investigation to bring the issue to the physician's attention. Ms. Jones spoke in favor of her motion and stated that the physician is ultimately responsible for his medical license. Dr. Figge stated that he struggled with regard to whether this matter rises to the level of discipline and stated that the matter did warrant tracking of the occurrence.

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

**VOTE: 3-yay, 6-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION FAILED.**

**MOTION: Dr. Gillard moved for the issuance of an Advisory Letter for action taken against the licensee in another jurisdiction and for failure to respond to specific inquiries from both the Michigan and Arizona medical boards. There is insufficient evidence to support disciplinary action.**

**SECOND: Dr. Figge**

Chairman Farmer stated that he was torn with regard to whether a non-disciplinary Advisory Letter was an appropriate resolution in this case. He stated that he did not want to minimize the need for physicians to take their responsibility to respond to the Board seriously. The Board discussed different ways to inform licensees regarding the laws and regulations relating to the practice of medicine. Chairman Farmer suggested compiling a list of bullet points to make licensees aware of certain items, including controlled substance CME requirements and maintaining current contact information with the Board, and include the information in the license renewal notices.

**VOTE: The following Board members voted in favor of the motion: Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Chairman Farmer, Dr. Figge, Dr. Gillard, Ms. Jones, Dr.**

**Krahn, and Dr. Paul. The following Board members were absent: Ms. Bain and Dr. Connolly.**

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

**MOTION PASSED.**

**2. THIS CASE WAS MOVED TO AGENDA ITEM P #4.**

**3. MD-19-0276A, MOHAMMAD R. KARAMI-SICHANI, M.D., LIC. #31022**

Dr. Karami-Sichani was present with counsel, Mr. Paul Giancola. Board staff summarized that Dr. Karami-Sichani deviated from the standard of care in this case by failing to provide medical management and treatment to the patient for thirty days after notification was made regarding termination of care. The Board's MC also found that the physician's medical record documentation was poor and his handwritten notes were illegible.

Dr. Karami-Sichani stated during his opening statement that the patient was discharged from his practice after she failed to appear for two scheduled appointments and the office staff was unable to reach her. He reported that he has been working on his handwriting and has taken corrective action to prevent a future occurrence. Mr. Giancola addressed the Board regarding the MC's concerns relating to medical recordkeeping and the patient's failure to present for two scheduled appointments with the physician. Mr. Giancola stated that there was no harm to the patient in this case and that the physician attempted to contact her to follow up and see how she was doing.

The Board questioned the physician regarding the medical recordkeeping concerns identified by the MC, noting that the handwriting was illegible and there were few details written in the progress notes. Dr. Karami-Sichani reported that his office has changed their recordkeeping practices and are currently using a different template that allows for more detail. The Board noted that the patient had been receiving psychiatric treatment from Dr. Karami-Sichani for two years. In response to questioning related to the termination of care, the physician explained that the termination letter was sent out after the patient failed to present for two scheduled appointments. He informed the Board that his office changed their termination procedure in that several attempts are made to contact the patient after an appointment is missed.

In closing, Mr. Giancola stated that the physician has learned a lot from this case, that this was an isolated event, and that the physician is working on improving his documentation. Dr. Krahn stated that she recognized the physician was attempting to help the patient to the best of his ability, but that unprofessional conduct did occur in the case in that he abruptly terminate care of a psychiatric patient that he had been treating for two years in addition to the recordkeeping concerns.

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

**SECOND: Dr. Paul**

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

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

**MOTION PASSED.**

Dr. Krahn expressed concern regarding the needs of the patient not being met in this case. She agreed with SIRC's recommendation for discipline and the requirement to complete CME.

**MOTION: Dr. Krahn moved for draft Findings of Fact, Conclusions of Law and Order for Letter of Reprimand and Probation. Within twelve months, Dr. Karami-Sichani shall complete the intensive, in-person course regarding medical recordkeeping offered by CPEP. Within thirty days of completing the Board ordered CME, the physician shall enroll into CPEP's personalized implementation**

program (PIP). The CME hours shall be in addition to the hours required for license renewal. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board. Dr. Karami-Sichani's request for termination shall be accompanied by proof of successful completion of the CME.  
**SECOND: Dr. Figge**

Dr. Figge agreed with Ms. Krahn's comments and pointed out that the physician was previously ordered to complete non-disciplinary CME in recordkeeping two years prior to the incident that occurred in the current case.

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

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

## **K. FORMAL INTERVIEWS**

1. THIS CASE WAS MOVED TO AGENDA ITEM J #3.

## **CONSENT AGENDA**

### **L. CASES RECOMMENDED FOR DISMISSAL**

1. MD-19-0287A, OLGA GOKOVA, M.D., LIC. #51459  
Dr. Figge was recused from this case.

**MOTION: Ms. Jones moved for dismissal.**

**SECOND: Dr. Krahn**

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

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

### **M. CASES RECOMMENDED FOR ADVISORY LETTERS**

**MOTION: Dr. Paul moved to issue an Advisory Letter in item numbers 1, 4, and 7-10.**

**SECOND: Ms. Jones**

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

**VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse (1 recusal noted in item #2), 2-absent.  
MOTION PASSED.**

1. MD-18-0813A, CLINTON J. LEONARD, M.D., LIC. #33779

**RESOLUTION: Issue an Advisory Letter for failing to pursue further evaluation after two episodes of postpartum hemorrhage to identify a possible cause and consider further interventions. There is insufficient evidence to support disciplinary action.**

2. MD-19-0260A, CATHERINE M. WESTERBAND, M.D., LIC. #26791

Dr. Figge was recused from this case. Dr. Gillard observed that the biopsy results were not properly delivered to the patient in this case and stated that that this appeared to be more of an office problem than an issue with the physician's care. Board staff reported that the patient's results were available three days after the second endometrial biopsy was performed and they were called in to the medical assistant. The physician documented in the patient's chart that she had planned to contact her that day; however, the physician did not do so on that day. Board staff clarified that in addition to the failure

to provide results to the patient, the physician did not follow through on her own chart notes indicating that she planned to contact the patient that day with the results.

Dr. Bethancourt expressed concerns related to the physician's failure to discuss with the patient how she wanted to proceed with her care. Dr. Beyer stated that he was troubled by this case and that the physician has a degree of responsibility to inform patients and have them participate in the care process.

**MOTION: Dr. Beyer moved for the Board to issue an Advisory Letter for failing to notify a patient of biopsy results showing adenocarcinoma prior to referring the patient to oncology. There is insufficient evidence to support disciplinary action.**

**SECOND: Dr. Krahn**

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

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

**MOTION PASSED.**

3. THIS CASE WAS PULLED FROM THE AGENDA.

4. MD-18-0952A, MATHEW M. EDAVETAL, M.D., LIC. #53855

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

5. MD-18-0867A, ANN THOMAS, M.D., LIC. #27537

Dr. Beyer noted that the patient did not return to Dr. Thomas' office and stated that he did not find where the physician was at fault in this case.

**MOTION: Dr. Beyer moved for dismissal.**

**SECOND: Dr. Gillard**

Dr. Gillard noted that this case involved issues with the patient's compliance with the physician's recommendations.

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

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

**MOTION PASSED.**

6. MD-19-0289A, MICHAEL C. ROCKWELL, M.D., LIC. #34344

Board staff summarized that patient DP filed a complaint alleging that the physician engaged in conduct of a sexual nature during an office visit. Dr. Krahn recognized that the incident was very upsetting for the patient, but stated that it appeared that this psychiatrist did not intend to upset the patient in his attempt to educate her. Dr. Krahn stated that she found this matter did not warrant Board sanction and moved for dismissal.

**MOTION: Dr. Krahn moved for dismissal.**

**SECOND: Dr. Bethancourt**

Dr. Gillard stated that the conduct did not violate A.R.S. § 32-1401(27)(aa) and spoke in favor of the motion. He noted that the physician immediately discontinued his commentary once he recognized that the patient was upset.

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

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

7. MD-17-1238A, ALFREDO LIM, M.D., LIC. #25315

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

**RESOLUTION: Issue an Advisory Letter for failing to timely inform the patient of x-ray results. There is insufficient evidence to support disciplinary action.**

8. MD-18-0208A, SWARAJ SINGH, M.D., LIC. #42584

**RESOLUTION: Issue an Advisory Letter for inappropriate evaluation and examination of a patient's upper extremities who presented with complaints of extremity tingling and pain. 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.**

9. MD-18-1185A, HUI GAO, M.D., LIC. #52594

**RESOLUTION: Issue an Advisory Letter for failure to obtain appropriate, pertinent information regarding KG's diagnostic studies and physical therapy progress; failure to perform and document a thorough neurological examination; and failure to delay an order for physical therapy until diagnostic studies had ruled out occult fractures. 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.**

10. MD-18-1185B, NEEJA N. DAVE, M.D., LIC. #48292

**RESOLUTION: Issue an Advisory Letter for ordering physical therapy prior to obtaining a radiologist's interpretation of diagnostic studies and for not addressing an elevated infection marker. 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.**

11. MD-19-0082A, THANH D. NGUYEN, M.D., LIC. #36194

Dr. Nguyen addressed the Board during the Public Statements portion of the meeting along with legal counsel, Mr. Steve Myers.

The Board recalled that this case was previously returned for further investigation to obtain additional information after the matter had been presented to the Board with a dismissal recommendation. Board members also noted that the case was agendaized for today's meeting for the Board to consider issuing an Advisory Letter for medical recordkeeping concerns. The Board recognized that Dr. Nguyen did order an ultrasound for the patient's noted abdominal swelling, but the order was not followed by the staff, and noted as well that Dr. Nguyen reported completion of 20+ hours of CME.

**MOTION: Dr. Gillard moved for dismissal.**

**SECOND: Dr. Beyer**

Board members agreed that the events that took place were horrific and stated that the primary concern in the case relates to the individuals who conducted themselves in a criminal fashion. Board members additionally expressed their sympathy for all parties affected by this truly horrific criminal act.

Dr. Gillard reiterated that the matter was reviewed twice over with the only identified concerns involving recordkeeping, and Chairman Farmer pointed out that the physician has worked to remedy those concerns. However, Chairman Farmer stated that he remained concerned regarding quality of care issues, noting that when Dr. Nguyen

assumed the patient's care, most orders were issued telephonically and there appeared to be a significant delay in the performance of a physical examination. The Board found it mitigating that the gynecological exams were refused. Dr. Krahn expressed her concerns as well, stating that this is a patient who is entirely dependent upon the institution to which she receives long term care. She noted that there was a transition in provider and stated that there was an unacceptably long delay for re-evaluation of this long term patient.

Dr. Gillard spoke in favor of his motion and reiterated that the patient's family refused certain examinations, the physician has completed significant CME in medical recordkeeping, and Dr. Nguyen has no prior Board history.

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

**VOTE: 5-yay, 4-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

## **N. CASES RECOMMENDED FOR ADVISORY LETTERS WITH NON-DISCIPLINARY CONTINUING MEDICAL EDUCATION ("CME") ORDERS**

### **1. MD-19-0074A, JOSEPH A. D. BROOKS, M.D., LIC. #33066**

Dr. Beyer noted that the physician has submitted proof of completion of CME to address the Board's concerns. Dr. Beyer spoke in favor of issuing an Advisory Letter to resolve the case without the requirement to complete additional CME.

**MOTION: Dr. Beyer moved for the Board to issue an Advisory Letter for inadequate medical records. There is insufficient evidence to support disciplinary action.**

**SECOND: Dr. Gillard**

Board staff reported that SIRC recommended that the licensee complete CME, and that Dr. Brooks voluntarily did so prior to the matter being considered by the Board.

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

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

**MOTION PASSED.**

### **2. MD-18-0832A, VERA A. MEIER-BENNETT, M.D., LIC. #44624**

Board staff summarized that the physician admitted to not being forthcoming regarding her logs for AA meeting attendance. SIRC reviewed the matter and recommended an Advisory Letter and Non-Disciplinary CME Order for violating the Board's Order and to complete the CPEP ProBE course for ethics. Ms. Jones discussed her concerns relating to the physician's initial defensive demeanor when the matter was brought to the Board's attention, and questioned whether the complaint made was a form of retaliation after the individual was terminated from the office due to theft.

Board members questioned whether the physician was required to have her logs signed for AA attendance. Board staff reported that the PHP Contractors have different requirements, and that only one of the Board's Contractors requires signed logs. AAG Smith pointed out that while the Board's Order does not explicitly state that signed logs are required, there is a specific requirement that the licensee comply with the terms of the PHP program. Dr. Beyer stated that he was troubled by this case, and noted that the physician has been doing well for the five years she has participated in PHP. He stated that the logs appear to have been altered and an Advisory Letter was warranted. Dr. Krahn echoed Dr. Beyer's comments, and stated that she was troubled that this licensee may not have participated fully in the program laid out by the PHP Contractor. Dr. Figge



pointed out that this matter did not involve patient care, and stated it appeared that the licensee had been compliant with her PHP participation. He spoke in favor of issuing an Advisory Letter without the requirement to complete non-disciplinary CME.

**MOTION: Dr. Figge moved to issue an Advisory Letter for violating a Board Order and providing false information to the Board during an investigation. 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. Gillard**

Chairman Farmer stated he was concerned that there was a possible pattern of the licensee attempting to deceive the Board regarding her meeting attendance; however, he did note that the physician has otherwise been successful in her PHP participation for the past five years.

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

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

**MOTION PASSED.**

**3. THIS CASE WAS PULLED FROM THE AGENDA.**

**O. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS**

**MOTION: Dr. Krahn moved to uphold the dismissal in item numbers 1 and 2.**

**SECOND: Ms. Jones**

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

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

**MOTION PASSED.**

**1. MD-18-0792A, NICOLE HOOK, M.D., LIC. #28865**

**RESOLUTION: Uphold the dismissal.**

**2. MD-19-0282A, GRANT E. WALKER, M.D., LIC. #30958**

**RESOLUTION: Uphold the dismissal.**

**3. MD-19-0347A, BRIAN L. SHAFER, M.D., LIC. #32597**

Complainant JC addressed the Board during the Public Statements portion of the Board's meeting.

Dr. Gillard pulled this case for discussion, noting the statements made during the Public Statements. He stated that the physician should have spoken to the patient rather than refuse the complete treatment. He proposed returning the case for further review. Dr. Krahn stated that she appreciated the patient's expressed dissatisfaction with the physician's care; however, she stated that it is standard for some specialists to require basic radiograph in order to improve the nature of the patient consultation. Dr. Beyer stated that he struggled with this case, and stated that there appeared to be a full evaluation with examination of the knee well described in the progress note. Dr. Figge stated he shared the Board members' concerns and noted that the last comment from the patient's statement indicated that there was an examination documented but was not performed. Board members agreed that the physician complainant was found credible, and considered returning the case to review whether the documented exam did occur.

**MOTION: Dr. Gillard moved to return the case for further investigation including a Board staff interview of the patient and physician.**

**SECOND: Dr. Beyer**

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

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

**MOTION PASSED.**

**P. PROPOSED CONSENT AGREEMENTS (Disciplinary)**

**MOTION: Dr. Figge moved to accept the proposed Consent Agreement in item numbers 2 and 3.**

**SECOND: Dr. Bethancourt**

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

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

**MOTION PASSED.**

**1. MD-18-0779A, MD-18-1053A, CHARLES B. EVANS, M.D., LIC. #37616**

Ms. Jones questioned whether the licensee should be prohibited from prescribing controlled substances during his period of probation in light of his prior Board history that included the issuance of an Advisory Letter in 2018 for inappropriate prescribing of controlled substances. She noted that historically, the Board has imposed prescribing restrictions pending the completion of further education to address the Board's concerns. Board members were informed that a PMP query confirmed that the physician has made changes to his prescribing practices.

**MOTION: Ms. Jones moved to accept the proposed Consent Agreement for Letter of Reprimand and Two Year Probation. Within six months, Dr. Evans shall obtain no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding controlled substance prescribing. The CME hours shall be in addition to the hours required for license renewal. Within 30 days of completion of the Board ordered CME, Dr. Evans shall enter into a contract with a Board approved monitoring company to perform periodic chart reviews at his expense. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board. Dr. Evans may not request early termination of the Probation without having completed two consecutive favorable chart reviews.**

**SECOND: Dr. Krahn**

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

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

**MOTION PASSED.**

**2. MD-19-0388A, SHARLET MURAD, M.D., LIC. #29050**

Attorney Scott King addressed the Board during the Public Statement portion of the meeting on behalf of Dr. Murad.

**RESOLUTION: Accept the proposed Consent Agreement for License Surrender.**

**3. MD-18-0190A, SIMON B. ISAAC, M.D., LIC. #46865**

**RESOLUTION: Accept the proposed Consent Agreement for License Surrender.**

**4. MD-18-0498A, JOSEPH A. D. BROOKS, M.D., LIC. #33066**

Dr. Gillard noted that the physician submitted proof of completion of 39.5 CME hours after attending a PACE course on September 18-20, 2019. He proposed that the Board consider accepting the reported CME hours in lieu of the requirement to complete the

ProBE course offered by CPEP for ethics. Board staff stated that although the physician reported CME hours in professional boundaries, SIRC thought that the concerns raised in the case were serious and warranted significant further education in boundaries and ethics.

**MOTION:** Dr. Gillard moved to accept the proposed Consent Agreement for Letter of Reprimand and One Year Probation. Within six months, Dr. Brooks shall complete the ProBE course offered by CPEP for ethics and boundaries. The CME hours shall be in addition to the hours required for the renewal of licensure. Dr. Brooks shall obtain an unconditional or conditionally passing grade. Dr. Brooks shall enter treatment for a minimum of ten sessions with a psychotherapist as recommended by his evaluator and shall comply with any and all treatment recommendations. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board. Dr. Brooks' request for termination must provide the Board with evidence establishing that he has successfully satisfied all of the terms and conditions of Probation, including confirmation from the psychotherapist that no further treatment is needed.

**SECOND:** Dr. Krahn

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

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

**MOTION PASSED.**

#### **Q. PROPOSED CONSENT AGREEMENTS (Disciplinary), OR TAKE OTHER ACTION**

1. MD-17-1223A, FRANKLIN H. BAROI, M.D., LIC. #22605

**MOTION:** Dr. Gillard moved for the Board to rescind the approval of the previous Consent Agreement in this matter and accept the proposed Consent Agreement for Letter of Reprimand and Two Year Probation with Practice Restriction. Dr. Baroi shall be prohibited from prescribing controlled substances in the State of Arizona except within the course and scope of his capacity and employment as Medical Director for Hospice Compassus- Casa Grande, until he enters into an agreement with a Board approved monitor to conduct chart reviews and provides Board staff with satisfactory proof of compliance with these requirements. Within 30 days of obtaining employment as a primary care provider, Dr. Baroi shall enter into a contract with a Board approved monitoring company to perform periodic chart reviews of his primary care practice at his expense. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board. Dr. Baroi may not request early termination of the Probation without having completed two consecutive favorable chart reviews.

**SECOND:** Ms. Jones

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

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

**MOTION PASSED.**

#### **R. APPROVAL OF DRAFT FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

1. MD-19-0278A, LUIS R. LOPEZ, M.D., LIC. #12246

**MOTION:** Dr. Figge moved to approve the draft Findings of Fact, Conclusions of Law and Order for Civil Penalty. Within ninety days via certified funds, Dr. Lopez shall pay a Civil Penalty in the amount of \$1,000.

**SECOND:** Dr. Gillard

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

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

**MOTION PASSED.**

## **OTHER BUSINESS**

### **S. THIS AGENDA ITEM WAS RESCHEDULED FOR OCTOBER 8, 2019.**

### **T. GENERAL CALL TO THE PUBLIC**

No individuals addressed the Board during the General Call to the Public on October 7, 2019.

### **U. ADJOURNMENT**

**MOTION: Dr. Gillard moved for adjournment.**

**SECOND: Ms. Jones**

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

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

**MOTION PASSED.**

The meeting adjourned at 5:18 p.m. on October 7, 2019.

**Tuesday, October 8, 2019**

## **GENERAL BUSINESS**

### **A. CALL TO ORDER**

Chairman Farmer called the meeting to order on October 8, 2019 at 8:04 a.m. and read aloud the Board's Mission Statement, "To protect public safety through the judicious licensing, regulation and education of all allopathic physicians."

### **B. ROLL CALL**

The following Board members were present on October 8, 2019: Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Chairman Farmer, Dr. Figge, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board members were absent: Ms. Bain and Dr. Connolly.

Present among Board staff on October 8, 2019 include: Patricia McSorley, Executive Director; Kristina Fredericksen, Deputy Director; Carrie Smith, Assistant Attorney General (AAG); AAG Anne Froedge, AAG Mary D. Williams, William Wolf, M.D., Chief Medical Consultant; Raquel Rivera, Investigations Manager; Amy Skaggs, Staff Investigational Review Committee (SIRC) Coordinator; Michelle Robles, Board Operations Manager; and, Andrea Cisneros, Minutes Administrator. AAG Sunita Krishna was present to provide independent legal advice on the hearing cases.

### **C. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA**

There were no individuals that addressed the Board during the Public Statements.

## **LEGAL MATTERS**

### **D. MOTION FOR REHEARING/REVIEW (Formal Interview)**

#### **1. MD-18-0534A, TRENT W. BATTY, M.D., LIC. #41253**

Dr. Batty was present with counsel, Andrew Breavington. Mr. Breavington stated that there were multiple grounds for rehearing/review including the fact that they believed the Board's decision in this case was based entirely on staff and the patient's subjective feelings that the conduct was sexual in nature. Mr. Breavington stated that the Board's

findings were contrary to the evidence and argued that three experts objectively found that the physician's conduct was not sexually motivated. He also explained that new material evidence was discovered after the Formal Interview relating to Dr. Batty's re-evaluation discussing his rehabilitative efforts and how he took responsibility for his conduct. Additionally, Mr. Breavington stated that the Board's decision in this case was excessively punitive.

**MOTION: Ms. Jones moved for the Board to enter into Executive Session to receive legal advice pursuant to A.R.S. 38-431.03(A)(3).**

**SECOND: Dr. Paul**

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

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

**MOTION PASSED.**

The Board entered into Executive Session at 8:15 a.m.

The Board returned to Open Session at 8:31 a.m.

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

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

**SECOND: Ms. Jones**

Dr. Krahn spoke in support of the motion and commented that the Board's action was appropriate to protect the public and that she has difficulty qualifying the re-evaluation as newly discovered information.

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

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

**MOTION PASSED.**

2. MD-17-0973A, JOHN D. MARSHALL, M.D., LIC. #10961

Dr. Marshall was present with legal counsel, Mr. Steve Myers. Dr. Marshall stated that the Board in this case relied heavily on the SIRC report regarding the standard of care. He stated that he felt the information was inaccurate and influenced the perception of his actual care of the patient. He stated the MC changed some of her analysis and opinion in her supplemental report to the Board after reviewing the physician's response to her initial quality of care findings. Dr. Marshall stated he felt that the Board's decision was excessive and that the findings were not justified by the evidence. Mr. Myers addressed the Board, stating that the Board spent an unusual amount of time discussing the physician's prior Advisory Letters (previously referred to as Letters of Concern) during the Formal Interview. Mr. Myers stated that at the time the prior Letters of Concern were issued to the physician, he did not have an opportunity to participate in the Board's proceedings to respond to the alleged misconduct, and should not be considered.

**MOTION: Dr. Gillard moved for the Board to grant the physician's motion for review based on R4-16-103(D)(5).**

**SECOND: Dr. Figge**

Dr. Gillard stated he believed that review was warranted in this case and recalled that the Board has historically issued different rulings in cases of missed radiograph findings.

**MOTION: Ms. Jones moved for the Board to enter into Executive Session to receive legal advice pursuant to A.R.S. 38-431.03(A)(3).**

**SECOND: Dr. Krahn**

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

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

**MOTION PASSED.**

The Board entered into Executive Session at 8:50 a.m.

The Board returned to Open Session at 8:56 a.m.

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

Dr. Beyer spoke against the motion and emphasized that one of the Board's strengths is the fact that different medical specialties are represented by the physicians on the Board as well as representation from public members who are outside of the field of medicine. Dr. Beyer stated he believed that the Board had all the information needed at the time to make its decision in this case. He also stated that the Board was aware of prior procedures involving the Letters of Concern at the time that the disciplinary sanction was discussed and voted on.

Dr. Gillard spoke for his motion, and stated that the Board has issued non-disciplinary sanctions in similar cases in the past. Dr. Gillard pointed out that the Board's prior vote to issue discipline in this case was not unanimous, and that the physician did attempt to order a film that was declined, which would have demonstrated whether the patient's condition had changed. Dr. Figge echoed Dr. Gillard's comments and stated that the physician did attempt to follow up with the patient by ordering the x-ray that was declined. Chairman Farmer commented that Arizona law requires the Board to consider prior actions in its proceedings while using good judgment and informed knowledge of the circumstances.

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

**VOTE: 3-yay, 6-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION FAILED.**

**MOTION: Dr. Gillard moved for the Board to grant the physician's motion for a full rehearing based on R4-16-103(D)(5).**

**SECOND: Dr. Bethancourt**

Dr. Beyer spoke against the motion and stated that rehearing was not warranted in this case. Dr. Bethancourt spoke for rehearing and noted that there was a three year period of time from when the abnormality was noted to the time that it was diagnosed, and that the patient's non-compliance with the physician's recommendations contributed to that delay. The Board considered returning the matter for a new MC review if rehearing is granted.

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

**VOTE: 5-yay, 4-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

**MOTION: Dr. Gillard moved to return the case for further investigation for review by a second medical consultant.**

**SECOND: Dr. Paul**

**VOTE: The following Board members voted in favor of the motion: Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Chairman Farmer, Dr. Figge, Dr. Gillard, Ms. Jones, Dr.**

**Krahn, and Dr. Paul. The following Board members were absent: Ms. Bain and Dr. Connolly.**

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

**MOTION PASSED.**

**E. *Gelety v. Arizona Medical Board* (LC2019-000319-001 DT/MD-18-0454A); REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING PETITION FOR REHEARING OR REVIEW, AND REQUEST FOR STAY OF BOARD ORDER.**

Board staff summarized that the Board previously considered the request for rehearing/review at its August 2019 meeting and a motion to grant the request failed. Because the Board did not vote to deny the request, the matter was presented at today's meeting for the Board complete that action and remedy that error.

**MOTION: Dr. Figge moved for the Board to deny the physician's motion for rehearing or review.**

**SECOND: Dr. Bethancourt**

Dr. Gillard noted that the patient's surgery was ultimately cancelled and stated that requesting a rehearing under R4-16-103(D)(5) was not unreasonable in this case. He spoke against the motion to deny the request. Dr. Krahn spoke in favor of the motion and stated that she found it troubling that there was an abrupt discontinuation of contact with the patient. Dr. Krahn also stated that the patient was not offered the opportunity to talk with the physician after the surgery was canceled to review further treatment options. She stated that the patient's major issues concerning fertility were left unanswered as a result. Dr. Beyer agreed with Dr. Krahn's comments and stated that the issues in the case centered on the physician's lack of response to the patient following the canceling of the procedure. Dr. Bethancourt agreed and recalled that the patient consent form only mentioned the biopsy and not the planned implantation. He noted that the patient's extreme efforts to contact the physician were unsuccessful.

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

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

**MOTION PASSED.**

AAG Williams requested the Board consider the physician's request to stay the Board's Order while the matter proceeded on appeal to Superior Court.

**MOTION: Dr. Gillard moved for the Board to stay its Order in this case.**

**SECOND: Dr. Paul**

The Board noted that the action was reported to the National Practitioner Data Bank (NPDB) and that staff would update the NPDB regarding the Board's action if the stay is granted pending Superior Court review. The Board was also informed that the action would be removed from the Board's website if the motion passed. AAG Williams informed the Board that the attorneys would be mindful of the length of time spent on appeal in the event that multiple requests for continuance are filed by the opposing party in attempt to delay the case any further. The Board further noted that the Order issued in this case did not involve probationary terms or restrictions.

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

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

**MOTION PASSED.**

## **F. RESCIND REFERRAL TO FORMAL HEARING AND ACCEPT PROPOSED CONSENT AGREEMENT**

1. THIS CASE WAS PULLED FROM THE AGENDA.

## **G. REVIEW, DISCUSSION AND POSSIBLE ACTION ON STATE'S MOTION FOR ALTERNATIVE ACTION IN LIEU OF REFERRAL TO FORMAL HEARING**

1. MD-18-1077A, MARIA E. AVILEZ, M.D., LIC. #28179

AAG Froedge presented this matter on behalf of the State. AAG Krishna was present as the Board's Independent Legal Advisor. AAG Froedge summarized that the case was referred to Formal Hearing due to the licensee's lack of response to the Board's investigation. AAG Froedge stated that once the case was referred, the licensee contacted her and explained that she was going through a difficult time during the course of the Board's investigation. AAG Froedge stated that given the fact that the physician has had no other complaints against her before and after this matter came to light, she requested the Board consider an alternative action and rescind its referral to Formal Hearing.

**MOTION:** Dr. Gillard moved to rescind the Board's referral to Formal Hearing and issue an Advisory Letter for failing to furnish information in a timely manner to the Board's investigators. 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. Krahn

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

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

**MOTION PASSED.**

## **H. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING RESPONDENT DR. ALPEN PATEL'S REQUEST TO DISCUSS SETTLEMENT WITH THE BOARD**

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

Dr. Krahn was recused from this case. Dr. Patel was present with counsel, Mr. Scott King. AAG Froedge was present on behalf of the State. AAG Krishna was present as the Board's Independent Legal Advisor.

Mr. King reported that Dr. Patel completed a five-day reevaluation at PineGrove in June of 2019 and that the evaluation report indicated that the physician has been compliant with his monitoring at Gateway Recovery Institute. He stated that the PineGrove evaluation addressed the drug screen that tested positive for ketamine was due to environmental exposure. Mr. King stated that they believed the confidential complaint stemmed from disgruntled former employees. Dr. Patel addressed the Board, stating that he is approaching two years of sobriety. He stated that he has done everything that the Board has asked of him and has been humbled to the point of performing janitorial duties. Dr. Patel reported that he has not been involved in any patient care but is doing the best he can to return to the practice of medicine. He asked that the Board consider this matter for a sanction less than revocation so that he can continue in his recovery and practice medicine.

AAG Froedge summarized that the case involved exploitation of a very vulnerable patient and pointed out the physician's prior Board history. She stated that it may be best to proceed to litigating the case at hearing to determine the facts. AAG Froedge informed the Board that while the PineGrove reevaluation indicated that the physician could return to the Board to request settlement to allow him to practice, the report also indicated that



the physician has a deceptive and manipulative presentation that leads individuals to mistrust him. Additionally, she stated that while PineGrove has recommended that the physician not practice in the field of pain management, he is currently employed by a pain management clinic with a physician whose name is similar to Dr. Patel's. AAG Froedge further reported that the physician initially enrolled in PHP with Dr. Sucher where his drug tests included ketamine monitoring. She stated that the physician subsequently transferred to Gateway to continue in monitoring and that their drug panel does not monitor for ketamine. The Board was also informed that an additional complaint was received against the physician and is currently pending investigation.

Chairman Farmer recalled that the Board's prior vote to refer the matter for license revocation was unanimous. He stated that the concerns raised in this case were grave and noted that the State continued to have grave concerns regarding the physician's conduct. Chairman Farmer stated that he has not heard a compelling reason to reconsider the matter. Dr. Figge agreed with Chairman Farmer's comments and spoke in favor of reaffirming the Board's referral for license revocation.

**MOTION: Dr. Figge moved for the Board to reaffirm its referral to Formal Hearing.**

**SECOND: Dr. Beyer**

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

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

**MOTION PASSED.**

## **CONSENT AGENDA**

### **I. LICENSE APPLICATIONS**

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

**MOTION: Dr. Paul moved to approve the application in item numbers 3-5.**

**SECOND: Dr. Figge**

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

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

**MOTION PASSED.**

#### **1. MD-19-0423A, ROBERT J. GOODWILL, M.D., LIC. #N/A**

Ms. Jones observed that the physician's plans after obtaining Arizona licensure included the provision of ER care to two rural towns in Arizona. Ms. Jones noted that the physician does not hold board certification and that he reported three serious malpractice cases on his license application, two of which resulted in settlement and one is pending. Dr. Beyer stated that he shared Ms. Jones' concerns and noted that the malpractice cases were relatively recent. Dr. Krahn stated that all three malpractice cases represent major morbidity for the patients involved. Dr. Figge pointed out that the diagnoses in the underlying patient care cases were all difficult diagnoses to make. He stated the Board may benefit from inviting the applicant to appear for a Licensing Interview to further discuss the Board's concerns.

**MOTION: Dr. Figge moved to invite Dr. Goodwill to appear before the Board for a Licensing Interview.**

**SECOND: Ms. Jones**

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

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

**MOTION PASSED.**

2. MD-19-0076A, REZA KANANI, M.D., LIC. #N/A

Ms. Jones noted the applicant's prior arrests, two of which occurred prior to the physician entering medical school. Ms. Jones noted that another arrest occurred in 2009 and resulted in probation with requirements that include restitution payments and AA meeting attendance, and was ultimately dismissed in 2013 after completion of probationary terms. She noted that this same arrest also resulted in disciplinary action against the applicant. Ms. Jones further noted that there were concerns identified during the physician's pediatric neurology training program that involved disturbing patients and some charges of sexual harassment. She proposed that the physician be invited to appear for a Licensing Interview.

**MOTION: Ms. Jones moved to invite Dr. Goodwill to appear before the Board for a Licensing Interview.**

**SECOND: Dr. Gillard**

Dr. Beyer spoke in favor of the motion and stated that although the reported conduct was not recent, the issues could be further addressed at a Licensing Interview.

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

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

**MOTION PASSED.**

3. MD-19-0678A, HOWARD U. JOHNSON, M.D., LIC. #N/A

**RESOLUTION: Approve the application.**

4. MD-19-0776A, JOSEPH H. BREZIN, M.D., LIC. #N/A

**RESOLUTION: Approve the application.**

5. MD-19-0741A, BRUCE G. BARTLOW, M.D., LIC. #N/A

**RESOLUTION: Approve the application.**

**ii. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING LICENSE APPLICATION AND RECOMMENDED ADVISORY LETTER**

1. MD-19-0892A, RAMON A. ROBLES, M.D., LIC. #N/A

**MOTION: Dr. Krahn moved to approve the application and issue an Advisory Letter for practicing medicine with an expired license. There is insufficient evidence to support disciplinary action.**

**SECOND: Dr. Paul**

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

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

**MOTION PASSED.**

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

1. MD-19-0467A, MAXIMINA A. D. BOUTSELIS, M.D., LIC. #44636

**MOTION: Dr. Figge moved to grant the renewal and issue an Advisory Letter for failure to identify a scaphoid wrist fracture leading to a delay in treatment requiring extensive surgery along with potential long-term complications. 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: Ms. Jones**

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

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

**MOTION PASSED.**

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

**1. LEONARD K. BAIDOO, M.D., LIC. #N/A**

Dr. Gillard noted that the applicant previously held board certifications in both internal medicine and gastroenterology.

**MOTION: Dr. Gillard moved to grant licensure by endorsement.**

**SECOND: Dr. Krahn**

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

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

**MOTION PASSED.**

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

**1. BRUCE E. SILVA, M.D., LIC. #N/A**

**MOTION: Dr. Gillard moved to grant the applicant's request for waiver of the documentation requirement.**

**SECOND: Dr. Paul**

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

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

**MOTION PASSED.**

**vi. CONSIDERATION OF LICENSE APPLICATION WITH RECOMMENDATION FROM THE EXECUTIVE DIRECTOR**

**1. FARHAD EBRAHIM, M.D., LIC. #N/A**

Dr. Gillard stated that based on his review of the file, he found that the physician's post-graduate training was completed at programs equivalent to the ACGME-accredited post-graduate training programs and to grant the license. He noted that the applicant holds licensure in Michigan and Ohio, and is board certified in radiologist. Dr. Krahn also spoke in favor of granting licensure, and observed the physician's subspecialty and advanced training.

**MOTION: Dr. Gillard moved to approve the application based on approval of the applicant's post-graduate training programs to satisfy the requirement for 36 months of post-graduate medical training.**

**SECOND: Dr. Krahn**

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

Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board members were absent: Ms. Bain and Dr. Connolly.  
VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.  
MOTION PASSED.

## OTHER BUSINESS

### J. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-13-0279A, JOSEPH J. FRANZETTI, M.D., LIC. #26738

The Board recalled that Dr. Franzetti appeared for a Formal Interview in 2014 to discuss serious allegations involving inappropriate contact. As a result of that interview, Dr. Franzetti was issued a Decree of Censure with Ten Year Probation with terms that included a chaperone requirement. The Board also noted that Dr. Franzetti requested and was granted the ability to utilize medical assistants to serve as the chaperone. Board staff reported that during the course of the physician's probationary period, there was the initial issue of non-compliance involving the chaperone requirement that was later resolved by the ability to use medical assistants to satisfy that term. Board staff confirmed that no other compliance issues have been reported. Board members noted that the Board Order stipulated that the physician may request termination after five years.

**MOTION:** Dr. Gillard moved to grant the physician's request to terminate the July 1, 2014 Board Order.

**SECOND:** Dr. Beyer

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

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

**MOTION PASSED.**

### K. GENERAL CALL TO THE PUBLIC

No individuals addressed the Board during the General Call to the Public on October 8, 2019.

### L. ADJOURNMENT

**MOTION:** Dr. Krahn moved for adjournment.

**SECOND:** Dr. Bethancourt

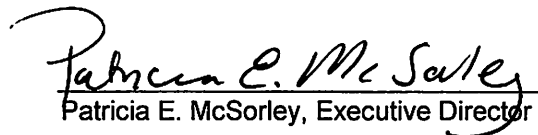
**VOTE:** The following Board members voted in favor of the motion: Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Chairman Farmer, Dr. Figge, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board members were absent: Ms. Bain and Dr. Connolly.

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

**MOTION PASSED.**

The meeting adjourned at 10:11 a.m. on October 8, 2019.



  
Patricia E. McSorley, Executive Director