



Arizona Medical Board

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FINAL MINUTES FOR REGULAR SESSION MEETING

Held on Monday, December 9, 2019

And Tuesday, December 10, 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, December 9, 2019

GENERAL BUSINESS

A. CALL TO ORDER

Chairman Farmer called the Board's meeting to order on December 9, 2019 at 8:11 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: Ms. Bain, Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Chairman Farmer, Dr. Figge, Ms. Jones, Dr. Krahn and Dr. Paul. The following Board member was absent: Dr. Gillard.

Present among Board staff include: Patricia McSorley, Executive Director; Kristina Fredericksen, Deputy Director; Carrie Smith, Assistant Attorney General (AAG); Anne Froedge, AAG; 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. Elizabeth Campbell, AAG, was present for independent legal advice on cases as identified below.

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

- Procedural Change to the Temporary Application Review Process

Executive Director McSorley reported that changes were made to the approval process for the issuance of temporary licenses, and stated that she will be reviewing all applications prior to their

approval. She stated that she worked with the AAG to ensure that there was no ambiguity in the application or its instructions and also to provide clarification to prevent future issues.

E. CHAIR'S REPORT

This item was considered on December 10, 2019.

Chairman Farmer recognized the presentation provided to the Board by the FSMB members during the first day of the Board's meeting. He encouraged Board members to inform the Executive Staff if they are interested in serving on the FSMB committees as they are anxious to have representation from Arizona. Chairman Farmer recognized Executive Director McSorley for rapidly becoming a recognized expert in the hierarchy of FSMB, and thanked her for her hard work.

Chairman Farmer informed the Board members that there has been a formalized process put in place on their website for Board members to contact the Information Technology services for assistance by a member of staff who is on call during weekends. Deputy Director Fredericksen added that she is also available to help resolve any IT issues encountered by Board members. Chairman Farmer thanked the staff for their availability.

F. LEGAL ADVISOR'S REPORT

This item was considered on December 10, 2019.

- Update regarding *Planned Parenthood of Arizona, Inc., et. al., v. Arizona Medical Board et. al.*

MOTION: Dr. Krahn moved for the Board to enter into Executive Session to obtain legal advice and to discuss pending or contemplated litigation pursuant to A.R.S. § 38-431.03(A)(3) and (4).

SECOND: Ms. Jones

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

VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 4-absent.

MOTION PASSED.

The Board entered into Executive Session at 1:32 p.m.

The Board returned to Open Session at 2:33 p.m.

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

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

AAG Smith reported that this matter was successfully resolved and that the records were provided as indicated in the Board's materials.

- Update regarding Notice of Appeal filed in LC2019-000394-001 *Batty v. Arizona Medical Board*

AAG Smith informed the Board that an appeal was filed by Dr. Batty arising out of the Board's decision in this case following the Formal Interview. She stated that AAG Mary D. Williams will provide the Board with updates as the matter proceeds.

G. PRESENTATION BY FEDERATION OF STATE MEDICAL BOARDS (FSMB)

Dr. Cheryl Walker-McGill, FSMB President Elect; and, Lisa A. Robin, FSMB Chief Advocacy Office, appeared before the Board and provided a presentation relating to the FSMB's services and policy initiatives.

H. APPROVAL OF MINUTES

- September 12, 2019 Special Teleconference, including Executive Session

- October 7-8, 2019 Regular Session, including Executive Session
- October 8, 2019 Annual Planning Meeting
- November 7, 2019 Special Teleconference, including Executive Session

MOTION: Dr. Figge moved to approve the September 12, 2019 Special Teleconference, including Executive Session; the October 7-8, 2019 Regular Session, including Executive Session; the October 8, 2019 Annual Planning Meeting; and, the November 7, 2019 Special Teleconference, including Executive Session.

SECOND: Dr. Krahn

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

VOTE: 7-yay, 0-nay, 0-abstain (Ms. Jones abstained from the vote to approve the November 7, 2019 Special Teleconference, including Executive Session), 0-recuse, 4-absent.

MOTION PASSED.

LEGAL MATTERS

I. RESCIND REFERRAL TO FORMAL HEARING AND ACCEPT PROPOSED CONSENT AGREEMENT

1. MD-16-1422A, MD-17-0029A, MD-17-0843A, TIMOTHY W. JORDAN, M.D., LIC. #26988

AC spoke during the Public Statements portion of the meeting. AAG Roberto Pulver was present on behalf of the State. Dr. Jordan was not present during the Board's consideration of this matter. Attorney Scott King was present on behalf of his client, Dr. Jordan. AAG Elizabeth Campbell was present as the Board's Independent Legal Advisor.

AAG Pulver provided a description of the proposed consent agreement, and stated that, Dr. Jordan would be issued a Decree of Censure in the three cases, and that the physician would be permanently prohibited from practicing medicine and applying for renewal or new licensure in the State of Arizona. The Consent Agreement would also terminate all current and pending investigations and Board Orders pertaining to this physician. Mr. King addressed the Board stating that his client is in agreement with the Consent Agreement and asked the Board to accept the proposal.

MOTION: Dr. Paul moved for the Board to rescind the referral to Formal Hearing and accept the proposed Consent Agreement for a Decree of Censure with terms including Dr. Jordan irrevocably agrees and consents he will not practice allopathic medicine in Arizona beginning from the date of this Order and going forward, and Dr. Jordan irrevocably agrees and consents that he will not renew or apply for an Arizona allopathic medical license beginning from the date of this Order and going forward. If Dr. Jordan were to renew or apply for an Arizona allopathic medical license, which is contrary to this Order, this Order provides ample and sufficient grounds for the Board to continually deny such application or any other applications. Dr. Jordan's current Probation and nay pending or current investigative matters or cases before this Board are dismissed, closed, or terminated.

SECOND: Ms. Bain

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

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

J. FORMAL INTERVIEWS

1. MD-19-0242A MATEJA D. STANONIK, M.D., LIC. #47675

Dr. Figge was recused from this case. Dr. Stanonik appeared on her own behalf during the Board's consideration of this case.

Board staff summarized that Dr. Stanonik was found to have engaged in unprofessional conduct by inappropriately accessing multiple patient records without a physician-patient relationship and adding her name as the consulting physician. Dr. Stanonik explained that she accessed the electronic records to obtain a list of patients and printed off the face sheets for all patients that she planned to see that day. Dr. Stanonik stated that there was little to no information provided to her by the physician for whom she took over coverage for on the date in question.

During the interview, Dr. Stanonik explained that she did not receive the usual sign off information from her colleague that was leaving their shift as she came on. Dr. Bethancourt noted that Dr. Stanonik scheduled follow up for a patient that she was not requested to consult. Dr. Stanonik stated that the patient had underwent subdural hematoma evaluation a few days prior and subsequently developed a bad headache and that she noted that it was a neurosurgical patient. She stated that she made some recommendations to the hospitalist with regard to the patient's headache, and charted that the patient may require follow up regarding the headache from a neurology perspective. Dr. Stanonik reported that she had a severe increase in the volume of patients she was seeing in the hospital that day, and that her clerk interpreted her note incorrectly. The Board noted that Dr. Stanonik made a late entry into one patient's chart regarding their initial consultation, but did not identify the note as a late entry.

Dr. Stanonik informed the Board that her privileges at the facility were temporarily suspended based on the HIPAA violation of printing off the patients' face sheets and handing them off to her clerk. The facility ultimately reinstated her privileges without restriction and the matter was referred to the Board. Dr. Stanonik assured the Board that going forward, she will not involve herself in patient care without being formally assigned to the case. In closing, Dr. Stanonik referenced the specific statutory violations for which she was cited, and stated that she did not believe that she engaged in unprofessional conduct.

Board staff reviewed the bases for the statutory violations that were identified by SIRC in this matter.

Dr. Bethancourt stated he found that Dr. Stanonik engaged in unprofessional conduct and spoke in favor of sustaining the statutory violations proposed by SIRC.

MOTION: Dr. Bethancourt moved for findings of unprofessional conduct in violation of A.R.S. § 32-1401 (e), (r), and (u) as stated by SIRC.

SECOND: Dr. Krahn

Dr. Krahn stated that there were significant discrepancies from what the physician testified in comparison to the SIRC report findings. Dr. Krahn questioned how the patients became in possession of the physician's business card, including patients that did not require neurology consultation. Dr. Krahn also expressed concern regarding the face sheets of patients that were passed on to Dr. Stanonik's office staff when the patients were not seen, and stated that this represents a significant privacy violation.

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

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

MOTION PASSED.

Dr. Bethancourt spoke in favor of accepting SIRC's recommendation for a disciplinary sanction.

MOTION: Dr. Bethancourt moved for draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and Probation. Within six months, complete CPEP's ProBE course in ethics. 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: Dr. Krahn

MOTION: Ms. Bain moved for the Board to enter into Executive Session to obtain 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: Ms. Bain, Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Chairman Farmer, Ms. Jones, Dr. Krahn and Dr. Paul. The following Board member was recused: Dr. Figge. The following Board member was absent: Dr. Gillard.

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

MOTION PASSED.

The Board entered into Executive Session at 10:04 a.m.

The Board returned to Open Session at 10:19 a.m.

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

Ms. Jones proposed requiring the physician to undergo continued education in interpersonal communications based on her testimony of the communication issues that occurred when signing out patient coverage. Chairman Farmer stated that there were clearly communication issues in this case, and that those issues had multiple origins and involved other individuals. Dr. Krahn noted that the electronic medical record allows the physician to access a list of patients assigned to neurology services, and stated that printing the face sheets for each patient was more involved and that she could not see why that was necessary in this case.

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

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

MOTION PASSED.

2. MD-18-0887A, KATHARINE A. ALTIERI, M.D., LIC. #50790

Dr. Altieri appeared on her own behalf during the Board's consideration of this matter. Board staff summarized that Dr. Altieri was found to have engaged in unprofessional conduct by presenting to work with a BAC of 0.069. On February 4, 2019, Dr. Altieri entered into an Interim Consent Agreement (ICA) for participation in the Board's Physician Health Program (PHP) that prohibited her from consuming any alcohol with random testing to ensure compliance. On June 5, 2019, Dr. Altieri tested positive for alcohol and subsequently admitted to consuming alcohol in violation of her ICA. The PHP Monitor recommended comprehensive evaluation, which was completed in July. The relapse was deemed a one-time occurrence and the facility recommended monitoring for five years and that the physician undergo 45 days of treatment if further relapse occurred. Due to Dr. Altieri's lack of insight after treatment and the one-time relapse, SIRC determined that this matter rises to the level of discipline and recommended the issuance of a Letter of Reprimand and Probation for five years of PHP monitoring in addition to treatment with a specialist.

Dr. Altieri explained that in August of 2018, she was accused by nurses as being unfit to practice and who alleged that she appeared to be experiencing alcohol withdrawals or was intoxicated. She denied the allegations. The following day she was contacted by the Medical Director of the ER and instructed to present to provide a blood sample for

testing. Dr. Altieri stated that she self-reported this incident to the Board in September of 2018 and claimed that she was initially told by Board staff that because her BAC level was low, she would more than likely only receive a Letter of Reprimand as a result of the Board's case.

Dr. Krahn questioned Dr. Altieri regarding how the Board's process has influenced her self-assessment. Dr. Altieri stated that she did not drink for months while she was completing the recommended evaluations, and admitted that after graduating from both inpatient therapy and intensive outpatient therapy, she consumed alcohol in violation of her ICA. Dr. Krahn expressed concern regarding the potential pattern of alcohol use and questioned whether it represented dependence that could possibly affect patient care. Dr. Altieri stated that according to her own calculations, she has not had any alcohol in the past 388 days with the exception of a "couple sips" of alcohol in June of 2019. Dr. Altieri reported that she currently attends Alcoholics Anonymous meetings once a week, but that she has not participated in any Caduceus meetings. Ms. Bain observed that the type of ICA for which Dr. Altieri entered into require strict compliance and questioned the physician regarding her plans for compliance going forward. Dr. Altieri stated that she had not complied with only two terms of the ICA that include consuming alcohol and not attending Caduceus meetings. She stated that she consumed alcohol in June when she falsely believed that she was cleared, and stated that she understands the gravity of her actions. Dr. Altieri assured the Board that patient safety is her number one priority, and stated that she has never been under the influence during her work shifts.

Dr. Krahn found that Dr. Altieri engaged in unprofessional conduct and spoke in favor of sustaining the statutory violations proposed by SIRC. Dr. Krahn stated that the physician appeared to take the matter seriously, but that she remained concerned based on the information presented for the Board's consideration.

MOTION: Dr. Krahn moved for findings of unprofessional conduct in violation of A.R.S. § 32-1401(27)(f), (r), and (s) as stated by SIRC.

SECOND: Dr. Figge

Dr. Figge agreed with Dr. Krahn's comments and stated that the physician appeared to minimize some of the issues that have been raised in this case.

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

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

Dr. Krahn noted that the inpatient facility in Cottonwood did not have the ability to do a PEth test when Dr. Altieri presented for evaluation. Dr. Krahn instructed the staff to ensure that any facility approved by the Board to perform such evaluations have that capability or utilize a reference lab. Dr. Krahn stated that doing so would assist the Board in its review of similar cases. Dr. Krahn agreed with SIRC's recommendation for discipline and stated that five years of PHP monitoring is appropriate, given the circumstances in this case.

MOTION: Dr. Krahn moved for draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and Minimum Five Year Probation, retroactive to July 10, 2019, with terms and conditions consistent with her Interim Order. In addition, Dr. Altieri shall engage in treatment with an addiction psychiatrist and/or psychotherapist. If the psychotherapist identifies additional treatment and/or therapy, Dr. Altieri shall comply with any recommendations from the evaluation or assessment, subject to approval by the Board or its staff. Dr. Altieri shall be responsible for all costs of the evaluations, assessment and any treatment recommended by the evaluators. The Probation shall not terminate except upon

affirmative request of the physician and approval by the Board. Dr. Altieri's request for termination shall be accompanied by recommendations from her PHP Contractor and psychiatrist/psychotherapist stating that monitoring is no longer required.

SECOND: Dr. Figge

The Board noted that Dr. Altieri's PHP participation is retroactive to July of 2019. Dr. Krahn stated she believed that the physician and her patients would be well-served by her participation in PHP monitoring for the five-year period. Dr. Krahn clarified that she was in agreement with the recommendation for the physician to enter into treatment with a Board-approved psychotherapist. Dr. Figge agreed with Dr. Krahn's comments and pointed out that the physician has the ability to request early termination of the Probation. He stated that based on the gravity of the situation in this case, the standard five years of monitoring was warranted.

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

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

K. FORMAL INTERVIEWS

1. MD-17-1225A, ALEXANDER J. ONOFREI, M.D., LIC. # 24575

Dr. Onofrei was present with Attorney Steve Myers. Board staff summarized that Dr. Onofrei was found to have deviated from the standard of care by prescribing a combination of muscle relaxers, benzodiazepines, anti-depressants, stimulants, opioids, and a barbiturate-containing headache remedy to a 25 year-old female diagnosed with bipolar disorder and fibromyalgia. During the course of the Board's investigation, a chart review was performed due to concerns regarding the physician's prescribing practices. Three additional charts were reviewed demonstrating a consistent pattern of risky prescribing as evidenced by Dr. Onofrei's prescribing of high doses of opioids in conjunction with benzodiazepines or stimulants. Dr. Onofrei also failed to utilize multimodal approaches to address chronic pain. Additionally, a review of the medical records did not reflect the rationale for dose increases with no clear documentation of function or functional improvement.

Dr. Onofrei apologized to the Board and stated that he let his patients down by not staying current with current guidelines for prescribing controlled substances. He stated that he accepts the recommendation to issue a Letter of Reprimand and requested the Board consider an alternative to the recommended Probation. Dr. Onofrei added that he has corrected the missteps identified in the case, and that he now believes his practice is one of the safest practices in the State of Arizona. He stated that he has no prior disciplinary history with the Board in his 21 years of practice. Dr. Onofrei reported that he has attended CME courses offered by PACE for prescribing and medical recordkeeping, and that his mid-levels have also undergone further education training. He stated that he has made radical changes in his prescribing practices including referral to specialists, avoidance of prescribing narcotics as often as possible, routine queries of the CSPMP, and quarterly reviews of his prescribing. Mr. Myers addressed the Board and requested that the physician's license not be placed under Probation and that in the alternative, his charts be monitored by the Board in a less restrictive manner that also protects the public.

Dr. Figge recognized that this matter involved several mitigating factors and applauded the physician in his efforts to change his practice and further educate himself. Dr. Figge noted that Dr. Onofrei attended three programs that totaled 50 CME credits, and that the physician not only sought further education for himself, but also sent his other physician-extenders to ensure that they are educated in the same subject matter. Dr. Figge

questioned whether the Board had the ability to monitor the physician's prescribing via the CSPMP database without placing his license under a probationary order.

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

SECOND: Ms. Bain

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

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Board entered into Executive Session at 11:23 a.m.

The Board returned to Open Session at 11:40 a.m.

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

Dr. Figge reiterated the corrective measures taken by the physician, and noted that the care rendered to the patients reviewed in this case occurred prior to the physician's completion of further medical education. Dr. Beyer questioned the physician regarding what he has learned after completing the CME courses. Dr. Onofrei explained that becoming aware of the Board's concerns was devastating, and that he has made substantial changes to his practice and that the providers in the practice routinely perform an internal review on a monthly basis for monitoring of prescribing and documentation. In response to Dr. Paul's questioning regarding the physician's policy for CSPMP utilization in his practice, Dr. Onofrei reported that the database is queried for each patient receiving controlled substance prescriptions. Ms. Bain stated that the physician appearing before the Board has been very important and helpful in this case, and commented that the physician has made an admirable attempt in correcting his practice.

Dr. Figge found that Dr. Onofrei engaged in unprofessional conduct and spoke in favor of sustaining the statutory violations proposed by SIRC.

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

SECOND: Dr. Paul

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

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

Dr. Figge stated that there were egregious prescribing patterns that occurred prior to the physician undergoing further education in prescribing and documentation. He stated that the prior prescribing practices had the potential to cause patient harm and that for this reason, he found that the case rises to the level of discipline. Dr. Figge stated that he agreed with SIRC's recommendation to issue a Letter of Reprimand; however, he stated that in light of the mitigating factors that include the changes in the physician's practice and completion of substantial CME, a probationary order was not warranted.

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

SECOND: Dr. Krahn

Dr. Bethancourt agreed with Dr. Figge's comments, and stated that the physician has instituted changes in his practice for both patient safety and to follow new regulation and laws that have recently become effective. Dr. Krahn stated that she appreciated the physician's forthrightness and stated that his testimony was very helpful.

Chairman Farmer commented that the issue of a probationary order disrupting a provider's ability to practice has been more and more frequently brought to the Board's attention in the recent years. He stated that the Board currently does not have another mechanism to monitor a physician's practice pursuant to current Arizona statutes. Chairman Farmer suggested that this subject be agendaized for consideration by the Board's Joint Legislative Review Committee (JLRC) for further review and discussion. Chairman Farmer spoke for the motion and stated that he believed the public was protected by issuing the Letter of Reprimand without Probation for monitoring.

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

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. THIS CASE WAS MOVED TO DECEMBER 10, 2019 AGENDA, ITEM I #8.
3. MD-18-0132A, NISARG A. SHETH, M.D., LIC. #50533

Dr. Sheth was present with Attorney Steve Myers. Board staff summarized that Dr. Sheth engaged in unprofessional conduct by incorrectly documenting in the medical record of a patient that he did not see or evaluate and who had already been discharged. He also attempted to bill at the highest level; however, once the employer was made aware of the issue, no charges were submitted. It was unclear if this was an isolated incident. Dr. Sheth stated that he understood the importance of a medical record and having accurate documentation is vital for continued patient care.

Dr. Sheth stated that he mistakenly documented in a patient's chart through the electronic medical records system without having actually seen the patient. He explained that this occurred on an unusually busy day and that he had documented in the patient's chart in preparation to see him, but by the time he went to see the patient, the nurse notified him that the patient had left the building. He received a call the following day from the Hospital Director informing him that the nurse reported the incident and he was terminated. Dr. Sheth stated that he did not bill for the patient visit in question. He pointed out that this was a one-time occurrence and assured the Board that he has been very cautious since then so as to not repeat it. Mr. Myers stated that there was no intent to falsify the medical record. He reported that since July of 2017, Dr. Sheth has not coded a single visit at a level 3, but instead has only billed at levels 1 or 2 even though a great many of his patient visits could have been billed at a higher rate due to the higher level of involvement. Mr. Myers requested the Board consider issuing a non-disciplinary sanction based on the mitigating circumstances.

During the interview, Dr. Sheth stated that he had no independent recollection of the event in question, and described for the Board the manner in which charts were filled out and billing codes assigned at the time. Dr. Sheth reported that he did not receive any formal education/training in coding and billing. He stated that he left the group in December of 2017 and is currently working for a group located in Phoenix. Dr. Figge observed that the electronic chart entry appeared to be electronically signed by the physician and stated that electronic medical record systems do not monitor notes for completion, despite the physician's claims that the system would not allow him to electronically sign an incomplete entry. Dr. Figge questioned the measures taken by the physician to further educate himself regarding billing. Dr. Sheth stated that he receives billing guidance from within his current group setting. Dr. Figge suggested that the physician undergo additional training to prevent under/over billing practices, and stated that he did not believe the physician has a grasp on these issues based on his testimony.

Dr. Beyer questioned the physician regarding how writing the brief note came about. Dr. Sheth reiterated that he had no independent recollection of the incident, and stated he may have written a quick note in the chart in preparation of seeing the patient. Dr. Sheth

stated he recognized that he should have deleted the chart entry as soon as he realized that the patient was discharged. He added that it is his understanding that in order to bill at higher rate, the assessment and documentation has to be thorough. Dr. Figge cautioned the physician regarding his billing and coding practices, stating that the billing is not based solely on the documentation, and instead is based on the level of care provided for the patient. In closing, Dr. Sheth apologized to the Board, stating that he learned his lesson and stated that he would like to continue practicing as a hospitalist.

Dr. Paul stated that he appreciated the physician appearing before the Board and providing testimony regarding what occurred in this case. Dr. Paul stated that the physician entered an incomplete chart note that appeared to be signed, for a patient that he did not see. Dr. Paul recognized that no charges were filed to bill for the visit that was documented in the brief note entry, and that no harm occurred to the patient in this case. Dr. Paul found that Dr. Sheth committed unprofessional conduct relating to recordkeeping and spoke in favor of sustaining a violation of A.R.S. § 32-1401(27)(e).

MOTION: Dr. Paul moved for findings of unprofessional conduct in violation of A.R.S. § 32-1401(e) for reasons as stated by SIRC.

SECOND: Dr. Figge

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

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

Dr. Paul proposed issuing a non-disciplinary Advisory Letter and stated that while the incident is worth tracking, disciplinary action was not warranted.

MOTION: Dr. Paul to issue an Advisory Letter and Order for Non-Disciplinary CME for entering a chart note on a patient prior to seeing and treating the patient. 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. Within six months, complete no less than 3 hours of Board staff pre-approved Category I CME regarding coding and complete no less than 3 hours of Board staff pre-approved Category I CME regarding medical recordkeeping. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Krahn

Chairman Farmer spoke in favor of the motion and offered the friendly amendment of adding non-disciplinary CME in recordkeeping and billing practices. Dr. Bethancourt stated that based on the physician's testimony, it is clear that CME in billing is required to educate the physician on the proper documentation for billing. Drs. Paul and Krahn were in agreement with the friendly amendment to include non-disciplinary CME in both subjects of medical recordkeeping and billing.

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

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

L. FORMAL LICENSING INTERVIEWS

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

Dr. Kanani was present with Attorney Steve Myers. Board staff summarized that Dr. Kanani disclosed on his license application probation that occurred during his

Postgraduate Training (PGT), misdemeanor traffic convictions, and action imposed by the Illinois Board. Board staff reported there have been no adverse actions reported against his medical license since completion of PGT and the receipt of medical licensure from Illinois in August of 2013.

Dr. Kanani explained that he decided to pursue a career in medicine after two years of chiropractic school. He stated that during the third year of his PGT, he elected to pursue pediatric neurology, for which he began training in 2010. Dr. Kanani reported that during 2010, he was placed on traffic-related summary probation and as a result, was reprimanded by the Illinois Board in 2011. Dr. Kanani informed the Board that after his probation ended, he was issued a full unrestricted medical license by the Illinois Board. Dr. Kanani explained the basis for his probation during residency. Dr. Kanani stated that he received a verbal warning and had no other issues after he returned to finish rotations. He reported that he completed an additional five years of residency and fellowship training, and feels as though he has matured both personally and professionally. Dr. Kanani stated that if granted licensure, he plans to offer remote intraoperative neurological monitoring of surgical cases involving both pediatric and adult patient to ensure no injuries to the nervous system during the procedures. Mr. Myers provided a statement in support of the physician's licensure.

Dr. Kanani further reported that he currently works independently from an office located in California, and described the type of services his practices provides remotely. He stated that there have been no reported adverse patient outcomes from his patient care, and that he holds medical licensure in several states. Ms. Jones further questioned the physician regarding his 2009 non-injury auto accident that occurred in Los Angeles, and noted that as a result, Dr. Kanani was placed on probation for three years with the requirement to attend alcohol awareness and pay a fine in addition to community service hours. Dr. Kanani explained that the officer originally charged him with a DUI, and that further testing did not prove there to be evidence of a DUI and the charge was ultimately dropped to exhibition of speed.

Ms. Jones observed that Dr. Kanani had one incident regarding an ER physician who found the physician's actions to be disruptive to the daily routine, and that the sexual harassment matter was separate and involved a fellow student. Dr. Kanani discussed the incident that gave rise to his residency probation. Dr. Kanani further explained to the Board that there was no formal probation issued against him, and that he was recommended to return to the children's hospital to finish his rotations and then return in six months when he felt better. Ms. Jones spoke in support of granting licensure. She thanked the physician for appearing before the Board for questioning.

MOTION: Ms. Jones moved for the Board to grant licensure.

SECOND: Dr. Beyer

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

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

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

Dr. Goodwill appeared on his own behalf during the Board's consideration of this matter. Board staff summarized that Dr. Goodwill disclosed three malpractice cases on his license application; two of which were settled and one that is currently pending. An MC reviewed the care rendered to the two patients in the matters that were settled and opined that Dr. Goodwill's minimal escalation of diagnostic evaluation or referral for an expert consultation resulted in or could have led to diagnostic delays and time-sensitive irreversible organ damage. In his supplemental report, the MC recognized that the physician further educated himself and broadened his approach to diagnoses in patients

presenting with acute complaints. SIRC reviewed the information and recommended granting licensure.

During the interview, Dr. Goodwill reported that he has been practicing in the field of emergency medicine since 2000. Dr. Figge recognized the MC's comments regarding the case involving patient with pseudotumor; specifically, the MC noted that the physician broadened his knowledge of pseudotumor. Dr. Goodwill reported that his plans for Arizona licensure involved working at a hospital in the rural area of Bisbee, Arizona and provide services in the ER as well as potentially covering a hospital in Douglas, Arizona. Dr. Figge questioned the physician regarding his protocol for complicated cases that require specialty consultation. Dr. Goodwill informed the Board that based on his experience, the need for consultation outside of the ER has been rare; however, he stated that complicated cases will be referred to the closest tertiary hospital.

Dr. Figge stated that this appeared to be a straightforward case, and noted that both the MC and SIRC recommended granting licensure based on their review of the information.

MOTION: Dr. Figge moved for the Board to grant licensure.

SECOND: Dr. Paul

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

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

MOTION PASSED.

CONSENT AGENDA

M. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Ms. Bain moved for the Board to issue an Advisory Letter in item numbers 3, 4, 5, 7, 10, 11, 12, 13, and 15.

SECOND: Dr. Krahn

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

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

1. MD-18-0701A, SUSAN J. JONES, M.D., LIC. #26166

Dr. Beyer pulled this case for discussion and observed that the matter involved the physician's Delegation Agreement with his Physician Assistant (PA). Dr. Beyer stated he was not sure that the matter rises to the level of an Advisory Letter, and stated he believed the physician may have received poor legal advice. Dr. Beyer spoke in favor of dismissal. Dr. Figge agreed with Dr. Beyer's comments and stated that this was clearly a misunderstanding.

MOTION: Dr. Beyer moved for dismissal.

SECOND: Dr. Figge

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

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

MOTION PASSED.

2. MD-19-0098A, FRANK W. MOUSSA, M.D., LIC. #28192

Dr. Moussa spoke during the Public Statements portion of the meeting.

Dr. Krahn observed that this case involved hand surgery performed on a patient who subsequently traveled home to New York and underwent evaluation by another

physician. Dr. Krahn stated that based on her review of the file, it appeared that Dr. Moussa was completely candid with the patient regarding the complicated fracture. Dr. Krahn added that she believed the transition from one physician to another was a major contributing factor in the case, and she spoke in favor of dismissal. Dr. Paul agreed with Dr. Krahn's comments and also spoke in favor of dismissal.

MOTION: Dr. Krahn moved for dismissal.

SECOND: Dr. Paul

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

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

MOTION PASSED.

3. MD-19-0279A, ALISON R. FOSTER-GOLDMAN, M.D., LIC. #53530

KL spoke during the Public Statements portion of the meeting.

RESOLUTION: Issue an Advisory Letter for failing to consider and investigate pertinent risk factors in a complicated patient presenting with persistent tachycardia and worsening lower extremity pain. There is insufficient evidence to support disciplinary action.

4. MD-19-0270A, CRAIG M. SZAFRANSKI, M.D., LIC. #50082

RESOLUTION: Issue an Advisory Letter for failing to ensure that the correct anastomosis was performed. 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.

5. MD-18-0956A, MATTHEW L. LYNCH, M.D., LIC. #49981

RESOLUTION: Issue an Advisory Letter for failure to appreciate an impending perforation of a 12cm dilated cecum. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

6. MD-19-0291A, IAN B. DEROOCK, M.D., LIC. #41596

Dr. Krahn noted that the physician allegedly failed to order a PET scan to identify cancer recurrence. Dr. Krahn observed that the physician was following the patient via CEA and that the levels were variable. Specifically, there was a spike that was a sign of a recurrence; however, another CEA followed with levels that were not as elevated in comparison. Dr. Krahn spoke in favor of dismissal and stated that the matter does not rise to the level of an Advisory Letter. Dr. Figge agreed with Dr. Krahn's observations and also spoke in favor of dismissal.

MOTION: Dr. Krahn moved for dismissal.

SECOND: Dr. Figge

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

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

MOTION PASSED.

7. MD-19-0532A, BRANDON K. SUEDEKUM, M.D., LIC. #35451

RESOLUTION: Issue an Advisory Letter for performing a cataract surgery with a Toric lens in a patient with a prior myopic keratomileusis procedure and irregular astigmatism. There is insufficient evidence to support disciplinary action.

8. MD-18-0772A, WENDY S. J. STOUT, M.D., LIC. #37432

Attorney Jeffrey Hunter spoke during the Public Statements portion of the meeting on behalf of his client, Dr. Stout.

Dr. Paul pulled this case for the Board's discussion, and noted that the matter involved a malpractice settlement. Dr. Paul observed that Dr. Stout inherited the patient's care in the ER. A CT scan was obtained and read as normal and the patient was prepared for hospital admission; however, the patient was not admitted under Dr. Stout's care. Dr. Paul stated that based on his review of the case, it appeared that Dr. Stout provided appropriate care during her involvement in the ER. Dr. Paul stated that the case does not rise to the level of an Advisory Letter and spoke in favor of dismissal. Dr. Figge agreed with Dr. Paul's statements, noting that the patient presented to the ER and the imaging appeared to have been misread. Dr. Beyer stated that he was concerned regarding the fact that the physician had two matters agendized for the Board's consideration, and both cases involved abdominal issues in the ER.

MOTION: Dr. Paul moved for dismissal.

SECOND: Dr. Figge

Dr. Figge commented that patients are often turned over to a new ER physician while waiting to physically leave the department for hospital admission. He stated that ER physicians typically check in with staff if help is needed, but that in the current case, the decision to admit the patient had already been made prior to Dr. Stout's involvement.

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

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

MOTION PASSED.

9. MD-19-0283A, WENDY S. J. STOUT, M.D., LIC. #37432

Attorney Jeffrey Hunter spoke during the Public Statements portion of the meeting on behalf of his client, Dr. Stout.

Dr. Paul noted that this matter involved a malpractice settlement regarding a patient who presented post-surgery to the ER for abdominal pain and was ultimately found to have a retained surgical sponge. Dr. Krahn stated that the physical examination appeared to be inadequate. Dr. Krahn stated that the patient's primary complaint involved the abdomen and that it was not clear from the records if an abdominal examination was performed. Chairman Farmer stated that based on his review of the case, it was clear that Dr. Stout did not perform an abdominal examination on this patient. He noted that the physician documented that her review of the nursing assessment substitutes for performing the exam, and Chairman Farmer stated that he found the comment troubling and bizarre.

Chairman Farmer stated that an Advisory Letter is warranted based on the physician's failure to examine the primary source of complaint for a patient that was clearly assigned to her care. Dr. Figge noted that no exam was documented and stated that of more concern was the physician's comment that the nursing notes justify not performing the exam.

MOTION: Dr. Paul moved to issue an Advisory Letter for failing to perform a complete physical examination including an assessment of the abdominal surgical incisions with the presence of bilateral wound VACs in a patient who subsequently required surgical intervention to remove a retained wound VAC sponge. 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

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

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

MOTION PASSED.

10. MD-18-0936B, ANDREA H. AN, M.D., LIC. #42372

RESOLUTION: Issue an Advisory Letter for failing to complete a thorough neurologic evaluation when initially evaluating a patient that presented with a posterior circulation thrombosis. There is insufficient evidence to support disciplinary action.

11. MD-18-0703A, CHRISTINA M. UNDERWOOD, M.D., LIC. #40298

RESOLUTION: Issue an Advisory Letter for inappropriately denying a patient's request for records by failing to document the denial in the medical record, providing the patient with an explanation for the denial, and providing the patient with the records for which there was not a basis to deny. 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.

12. MD-19-0377A, TERENCE S. O'KEEFFE, M.D., LIC. #40631

RESOLUTION: Issue an Advisory Letter for failing to timely evaluate and address progressive abdominal distension in a known trauma patient. There is insufficient evidence to support disciplinary action.

13. MD-19-0271A, NATHAN M. BROOKS, M.D., LIC. #34307

RESOLUTION: Issue an Advisory Letter for inadequate medical records and for making a diagnosis of bacterial vaginosis without performing an adequate history and physical examination. 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.

14. MD-19-0561A, SEYED M. S. TAKIEH, M.D., LIC. #33949

Dr. Takieh spoke during the Public Statements portion of the Board's meeting.

The Board members recalled that the physician appeared and provided a statement during the Public Statements portion of the meeting. Dr. Beyer stated he believed that this was a physician who sought legal advice on how to proceed with a specific matter and appeared to have relied on that advice. Dr. Beyer found that an Advisory Letter was not warranted and spoke in favor of dismissal.

MOTION: Dr. Beyer moved for dismissal.

SECOND: Ms. Jones

Chairman Farmer recalled that the physician stated that the Board recommended that he seek legal advice. Board staff confirmed and stated that the physician was instructed to seek consultation with an attorney when he contacted the Board's staff requesting legal advice. Chairman Farmer found that the physician's actions were appropriate and noted that he sought legal advice from five attorneys prior to proceeding.

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

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

15. MD-19-0069A, HUSNU E. KAYNAK, M.D., LIC. #47038

RESOLUTION: Issue an Advisory Letter for failure to recognize the incorrect placement of a femoral venous catheter in a subsequent angiogram. There is insufficient evidence to support disciplinary action.

16. MD-19-0374A, OMID G. DILMAGHANIAN, M.D., LIC. #44118

Attorney Vail Cloar spoke during the Public Statements portion of the Board's meeting on behalf of his client, Dr. Dilmaghanian.

Dr. Bethancourt noted that this case involved the physician's failure to sign the patient's death certificate within 72 hours. Dr. Bethancourt observed that in February, the patient left the care facility for which Dr. Dilmaghanian serves as Medical Director and the patient expired in April. Dr. Bethancourt stated that it appeared to be an honest assumption of the physician that the patient had a new provider by that time.

MOTION: Dr. Bethancourt moved for dismissal.

SECOND: Dr. Figge

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

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

MOTION PASSED.

17. MD-19-0420A, SHEHZAD M. PAREKH, M.D., LIC. #30876

The Board was informed that this matter was pulled from the Agenda per the request of the physician's counsel.

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

1. MD-18-0452A, PHILIP B. IVEY, M.D., LIC. #27066

MOTION: Dr. Figge moved for the Board to issue an Advisory Letter and Order for Non-Disciplinary CME for failing to adequately assess a patient with a twin pregnancy presenting with abdominal pain and spotting and for failing to complete any documentation regarding the encounter. Within six months, complete no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding medical recordkeeping. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Paul

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

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

MOTION PASSED.

O. LICENSE APPLICATIONS

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

1. MD-19-0734A, GARY W. PAGE, M.D., LIC. #N/A

Dr. Page spoke during the Public Statements portion of the meeting.

Board staff summarized that Dr. Page applied for medical licensure and disclosed multiple disciplinary actions from the Utah, California, and Nevada boards. Additionally, it was noted that Dr. Page surrendered his homeopathic license based on felony indictment charges involving a patient death for care provided in Arizona. Dr. Page also reported PGT Probation in 1999 for unauthorized absences and successfully completed the three year program. In 2005, the Nevada Board denied licensure for failure to disclose, and the Utah Board denied Dr. Page's license renewal in 2012. Board staff reported that Dr. Page currently holds licensure in Arizona for homeopathic medicine since 2018, and that he also has held medical licensure in California since 2017. Board staff further stated that Dr. Page does not qualify for licensure via universal recognition due to the prior surrendering of his California medical license and the denial of his license renewal by the Utah Board.

Chairman Farmer noted that SIRC was identified a a number of prior actions on Dr. Page's application for Arizona licensure. Dr. Krahn stated that this was a very disturbing application with a voluminous, variety of issues that have occurred. Dr. Krahn stated that she appreciated the physician's statement that all issues have been remedied; however, she stated that she is left with a very deep concern regarding Dr. Page's fundamental judgment and ability to be regulated by this Board. Dr. Krahn added that this individual appeared to have a hard time complying with rules that have led to an astonishing pattern of challenging behaviors, and she stated that this causes her great concern. Dr. Bethancourt agreed with Dr. Krahn's comments, and stated that the July 15, 2011 felony charge of endangerment involving the death of a female patient goes beyond the boundaries of a family practitioner. Chairman Farmer agreed with Board members' statements and commented that a lot of the behaviors noted in the file appeared cavalier and somewhat bizarre. Dr. Figge also agreed with Board members' comments and stated that this did not appear to be a simple lapse of judgment.

MOTION: Dr. Krahn moved for the Board to deny the license based on A.R.S. § 32-1422(A)(4).

SECOND: Dr. Bethancourt

Board members discussed whether to offer the physician the opportunity to withdraw the license application in lieu of formal license denial. Dr. Krahn spoke in support of formal denial of licensure and stated that her motion is based on concerns that the physician's professional record is problematic.

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

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. MD-19-0444A, LAKSHMINARAYANA GUTTIKONDA, M.D., LIC. #N/A

Dr. Guttikonda and Attorney Paul Giancola spoke during the Public Statements portion of the meeting.

Board staff summarized that Dr. Guttikonda applied for an Arizona medical license and disclosed on his application a malpractice settlement, action in New York, non-continuous practice since 2015, and also discussed his medical condition during his Public Statements statement. In October of 2019, the physician completed recordkeeping CME, totaling 17 credit hours. An MC reviewed the malpractice case and opined that the physician carried out appropriate medical treatment as an anesthesiologist, but failed to communicate concerns and his documentation was poor.

Ms. Bain requested clarification regarding the MC's opinion that there did not appear to be any "frank deviation." Board staff explained that while it may not have been best practice, it was still within the standard of care. Ms. Jones observed that the physician's assessment of 2017 and follow up in 2018, included the suggestion for the physician to consider a different specialty field as an alternative to the practice of anesthesiology. Ms. Jones noted that Dr. Guttikonda reported plans of joining an anesthesia practice if granted Arizona licensure. Chairman Farmer stated that this case involved multiple concerns, including some that are confidential. With regard to the anesthesia case, Chairman Farmer expressed concern regarding the provided explanations. Dr. Figge agreed with Chairman Farmer's comments, and stated that something does not fit. Chairman Farmer added that he was not comfortable granting licensure based on the information presented in the case file. He recognized that the physician has obtained substantial education.

Dr. Figge noted staff's recommendation to invite the physician to appear before the Board for a Licensing Interview, and opined that any questions that would have been asked by the Board at that time were all answered by the applicant during the Public Statements portion of the Board's meeting. Dr. Figge stated that he recognized the physician has completed re-entry education. Dr. Beyer applauded the physician for his efforts to work through his problems, and spoke in support of granting a probationary license with specific requirements to include PHP participation. Dr. Krahn agreed with Dr. Beyer's comments, and recognized that the physician proactively involved himself with the PHP Contractor. Dr. Krahn spoke in favor of granting probationary licensure with continued PHP participation. Ms. Jones stated that the license should also practice re-entry terms per the recommendations from the 2018 evaluation report.

MOTION: Dr. Krahn moved for the Board to grant a probationary license with restriction from practicing anesthesiology in a hospital setting, and mandate PHP participation for a period of five years.

SECOND: Dr. Paul

Dr. Beyer expressed concern regarding having safeguards in place for non-hospital settings. Dr. Krahn stated that the physician should be prohibited from practicing in the operating room or a setting that involves administration of medications. Chairman Farmer noted that there was also the recommendation made for a proctor. The Board discussed the specific recommendations made in the 2018 evaluation report regarding the return to work recommendations, and considered returning the case to allow the physician the opportunity to formulate those plans and have it reviewed by PHP. Drs. Krahn and Paul withdrew their motion.

Dr. Krahn spoke in favor of allowing the physician to develop his return to work plans and review by PHP. Dr. Beyer proposed including the timely review of at least ten percent of Dr. Guttikonda's cases for the first six months of practice for the purposes of monitoring. The Board members agreed that the matter should be returned for further investigation to obtain the additional information.

MOTION: Dr. Krahn moved to return the case for further investigation to obtain additional information regarding the physician's return to work plan referenced in the Acumen, and to return to SIRC to offer the applicant a Consent Agreement for a probationary license incorporating the return to work recommendations and 5 years of PHP monitoring with terms and conditions consistent with the current private agreement as well as a requirement to continue with a Board-approved psychiatrist.

SECOND: Ms. Jones

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

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

3. THIS CASE WAS MOVED TO ITEM O. ii #1.
4. MD-19-0540A, SANJEEV SAXENA, M.D., LIC. #N/A

Dr. Saxena and Attorney Lauren Weinzwieg spoke during the Public Statements. Dr. Patricia Thorpe addressed the Board during the Public Statements portion of the meeting on behalf of Dr. Saxena.

Board staff summarized that this applicant disclosed a pending malpractice claim with the allegation that Dr. Saxena performed unnecessary venous stenting on five patients. The case was reviewed by an MC who observed that all five patients underwent extensive stenting, which the MC opined was a deviation from the standard of care. The MC stated that the main approach to therapy should have been conservative.

Board staff noted that the applicant submitted a response that included supportive expert opinions regarding the stenting cases. Board staff further informed the Board that the recent submission by counsel had not yet been reviewed by the MC in this case.

MOTION: Ms. Bain moved for the Board to enter into Executive Session to obtain 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: Ms. Bain, Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Chairman Farmer, Dr. Figge, Ms. Jones, Dr. Krahn and Dr. Paul. The following Board member was absent: Dr. Gillard.

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Board entered into Executive Session at 2:08 p.m.

The Board returned to Open Session at 2:36 p.m.

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

In response to Chairman Farmer's question of how to proceed in an expeditious fashion, Board staff suggested that the MC have an opportunity to respond to the applicant's response and that the Board consider having the case reviewed by a second MC as well. Dr. Krahn spoke in support of returning the case to allow the MC an opportunity to review and respond to the material submitted by the physician's counsel, and to have the case reviewed by a second MC.

MOTION: Dr. Krahn moved to return the case for further investigation to allow the MC to respond and obtain a second MC review.

SECOND: Dr. Bethancourt

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

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

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

1. MD-19-0781A, RYAN M. THORWARTH, M.D., LIC. #N/A

Drs. Connolly and Krahn recognized that Dr. Thorwarth appeared to be affiliated with the institution to which they are as well, and indicated that they had no personal knowledge of the physician.

Board staff summarized that Dr. Thorwarth disclosed on his license application a misdemeanor that occurred while in undergraduate training. Board staff reported that all issues surrounding that event have been resolved, and that SIRC reviewed the case and recommended granting licensure.

MOTION: Dr. Figge moved for the Board to grant licensure.

SECOND: Dr. Paul

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

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. MD-19-1090A DAVID C. CHANG, M.D., LIC. #N/A

Board staff summarized that Dr. Chang applied for licensure and disclosed a malpractice claim, other state board action, and resignation of privileges. The malpractice claim was reviewed by the Board's Chief Medical Consultant (CMC) reviewed the file and determined that specialty review by an MC was not warranted.

Ms. Jones questioned the practice of keeping anesthesia medications in the on-call room. Chairman Farmer stated that from an anesthesiology perspective, the malpractice case involved a serious allegation arising from an airway catastrophe. Chairman Farmer stated that there did not appear to be any indication of a pattern and that the incident occurred in the distant past. Chairman Farmer added that in the setting of a rural hospital, anesthesia medications are hard to obtain for emergencies, and observed that this was investigated and cleared. Ms. Bain questioned whether the applicant holds medical licensure in any other states. Board staff reported that Dr. Chang is licensed in California.

MOTION: Ms. Jones moved for the Board to grant the request for waiver of documentation requirement and grant licensure.

SECOND: Dr. Figge

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

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

3. MD-19-0708A, EDWARD A. VIVIAN, M.D., LIC. #N/A

Board staff reported that Dr. Vivian applied for Arizona licensure and disclosed a single malpractice claim, other state actions, and a criminal history of two charges. The Board's CMC reviewed the malpractice claim and opined that it was a remote and isolated incident that did not reflect a pattern of unprofessional conduct and did not warrant specialty review by an MC. As a result of the malpractice case, Dr. Vivian was reprimanded by the Wisconsin Board in 1999, and he was issued reciprocal discipline by the Iowa Board based on Wisconsin's sanction. Board staff reported that Dr. Vivian's criminal charges did not involve patient care, and that the physician successfully completed PHP in 2017.

Dr. Beyer observed that Dr. Vivian completed PHP with the Washington Board and questioned whether the monitoring terms were similar to this Board's PHP. Dr. Krahn pointed out at the file included a letter from the Washington Board's PHP that outlined components similar to that of the Arizona Board's PHP.

MOTION: Dr. Beyer moved for the Board to grant licensure.

SECOND: Dr. Krahn

VOTE: The following Board members voted in favor of the motion: Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Chairman Farmer, Dr. Figge, Ms. Jones, Dr. Krahn and Dr. Paul. The following Board member voted against the motion: Ms. Bain. The following Board member was absent: Dr. Gillard.
VOTE: 9-yay, 1-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

4. MD-19-0930A, DANIEL J. MILLER, M.D., LIC. #N/A

Board staff summarized that the applicant disclosed termination from PGT training in 2007 in addition to actions taken by the Tennessee and Virginia boards. Board staff reported that Dr. Miller maintains licensure in both states, and that he has been continuously employed without additional issues. Ms. Jones observed that the 2007 termination related to the physician being impaired at work and that recommendations were made for him to obtain further psychological counseling. Board staff reported that the physician did not provide any documentation relating to the recommendation for further counseling.

MOTION: Dr. Beyer moved for the Board to grant licensure.

SECOND: Dr. Figge

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

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

MOTION PASSED.

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

1. SHAHID HUSSAIN, M.D., LIC. #N/A

MOTION: Dr. Krahn moved for the Board to grant the request for waiver of documentation requirement.

SECOND: Dr. Bethancourt

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

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

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

1. PAUL E. SAVAGE, M.D., LIC. #N/A

MOTION: Dr. Paul moved for the Board to grant licensure by endorsement.

SECOND: Dr. Figge

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

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

MOTION PASSED.

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

OTHER BUSINESS

P. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-16-1106A, KARNAIL S. DHILLON, M.D., LIC. #27921

MOTION: Dr. Figge moved to grant the physician's request to terminate his February 5, 2019 Board Order.

SECOND: Dr. Krahn

Ms. Jones observed that Dr. Dhillon was placed on Probation for five years, and that the Order has been effective for only one year. Board staff reported that Dr. Dhillon was placed on Probation for five years with several terms and conditions, and that the physician has timely complied with all requirements.

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

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

MOTION PASSED.

2. MD-17-0820A, RAUL J. R. SORA, M.D., LIC. #21047

Board staff reported that quarterly reports were received from the physician's treating provider reporting his ability to practice medicine safely, and that seven chart reviews were performed that were favorable. Board staff further reported that Dr. Sora's treating provider is in support of Probation termination.

Dr. Beyer questioned whether the request should be granted to terminate the Board Order. Chairman Farmer noted that Dr. Sora underwent close monitoring. Board staff stated that the treating provider remained consistent throughout the physician's probationary period and that no real concerns were reported during monitoring.

MOTION: Dr. Figge moved to grant the physician's request to terminate his December 11, 2017 Board Order.

SECOND: Ms. Jones

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

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

MOTION PASSED.

Q. GENERAL CALL TO THE PUBLIC

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

R. ADJOURNMENT

MOTION: Ms. Jones moved for adjournment.

SECOND: Dr. Paul

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

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

MOTION PASSED.

The Board's meeting adjourned on December 9, 2019 at 5:34 p.m.

Tuesday, December 10, 2019

GENERAL BUSINESS

A. CALL TO ORDER

Chairman Farmer called the Board's meeting to order on December 10, 2019 at 8:08 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 December 10, 2019: Ms. Bain, Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Chairman Farmer, Dr. Figge, Ms. Jones, and Dr. Krahn. The following Board members were absent: Dr. Gillard and Dr. Paul.

Present among Board staff include: Patricia McSorley, Executive Director; Kristina Fredericksen, Deputy Director; Carrie Smith, Assistant Attorney General (AAG); Anne Froedge, AAG; 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. Elizabeth Campbell, AAG, was present for independent legal advice as identified herein.

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. PRESENTATION TO THE BOARD, USING TABLEAU VIEWER TO VIEW AND MANIPULATE DATA ON CUSTOM AMB DASHBOARDS

Kristina Fredericksen, Deputy Director, and Angie Greenhaw, Solution Principal for Data & Analytics at Slalom, provided an instructional presentation of the Tableau Viewer and demonstrated for the Board how to navigate through and manipulate the data on the AMB dashboards.

LEGAL MATTERS

E. DISCUSSION AND POSSIBLE ACTION REGARDING RESPONDENT'S SETTLEMENT PROPOSAL

1. MD-19-0558A, KENNETH M. FISHER M.D., LIC. #12762

Attorney Calvin Raup was present on behalf of his client, Dr. Fisher. AAG Pulver appeared on behalf of the State. Dr. Fisher joined the meeting during the Board's consideration of this matter. AAG Elizabeth Campbell was present as the Board's Independent Legal Advisor.

Mr. Raup thanked the Board for entertaining the settlement proposal. Mr. Raup asked that the Board consider the proposal and stated that Dr. Fisher's patients need him to continue practicing.

AAG Pulver informed the Board that the State took no position regarding the proposed settlement, and that he was available for questioning.

Dr. Krahn recognized that the proposal included a very detailed list of restrictions to Dr. Fisher's practice, and questioned whether there was a mechanism for monitoring to ensure compliance. Board staff confirmed that there are resources available to the Board to monitor for compliance. Chairman Farmer observed Dr. Fisher's prior Board history and stated that the Board has been dealing with issues regarding this physician and questioned his ability to be regulated for an extensive period of time. The Board recognized that Dr. Fisher practices in a rural area of Arizona, and that there have been reports of a specific patient population that is dependent on this physician's ability to continue to practice medicine in the State of Arizona. Dr. Krahn recalled prior statements

that the physician planned to retire from the practice of medicine, and questioned whether he has made plans to do so in the near future. Ms. Jones stated that she has empathy for the patient population involved, and questioned why the physician has not corrected his behavior to address the concerns that have been raised.

Dr. Bethancourt pointed out that Dr. Fisher's prior Board history dated back to April of 1990, and commented that someone so dedicated to taking care of their patients should also be dedicated to following the rules and regulations. Ms. Bain questioned staff as to how often the Board has encountered such difficulties in the regulation of a licensee. Executive Director McSorley stated that it is not a frequent problem seen by this Board.

Dr. Figge commented that the physician put himself in a position that compromises care for his patient population, and that there have been prior warnings and punishments issued by the Board. Dr. Figge added that the previous statements regarding plans for retirement should have prompted the physician to establish a plan for transitioning his patients for continued care with new providers.

MOTION: Ms. Bain moved for the Board to enter into Executive Session to obtain 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: Ms. Bain, Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Chairman Farmer, Dr. Figge, Ms. Jones, and Dr. Krahn. The following Board members were absent: Dr. Gillard and Dr. Paul.

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

MOTION PASSED.

The Board entered into Executive Session at 8:23 a.m.

The Board returned to Open Session at 8:58 a.m.

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

Dr. Fisher addressed the Board upon its return to Open Session, stating that he has had nothing but respect for the Board throughout this process. Dr. Fisher claimed that he had a difficult time dealing with CPEP, and that he believed he complied with their requests. Dr. Fisher assured the Board that he has established a transition plan that he is prepared to implement, depending on the results of the Board's proceedings. Dr. Fisher reported that his patients have had difficulty transitioning their care to other providers.

Chairman Farmer read aloud the Board's Mission Statement, and stated that in this case, it appeared that the core concern is the very long running issues of compliance. Chairman Farmer stated that he appreciated Dr. Fisher's efforts to care for his patient population, and stated that the Board has attempted to accommodate the physician's practice on several occasions without successful compliance. He noted that Dr. Fisher continued inappropriate prescribing practices that have been deemed unsafe, and stated that Dr. Fisher's transition plan should have been implemented and pursued aggressively many months prior. Chairman Farmer stated that had this process been started previously, it would be phasing toward completion by this time.

Dr. Krahn stated that she appreciated the lengthy, detailed proposal presented for the Board's consideration, and that she believed there remained a non-acceptable degree of risk for patients. Dr. Krahn opined that the proposed settlement is not sufficient in the context of the physician's disciplinary history. Dr. Figge recalled counsel's comment that the proposal essentially mirrored the manner in which the physician had been practicing prior to the Board's summary suspension of his license. Dr. Figge stated that the Board cannot allow the physician to return to the practices that led to the physician's summary suspension. Dr. Figge added that history has established this physician's inability to comply with the Board's regulations and stated that concerns remain regarding public safety. Ms. Bain thanked the physician for appearing before the Board. She stated that the issues that led to the summary suspension of November 2019 were created by Dr.

Fisher and his office, and not the Board. Ms. Bain stated that she struggled with how further accommodations should be offered if prior monitoring to ensure compliance has been unsuccessful. Ms. Jones agreed with Board members' comments and stated that she did not feel as though there has been any compliance from this physician. Ms. Jones spoke in favor of denying the proposed settlement and allowing the matter to proceed to the Office of Administrative Hearings for a Formal Hearing.

MOTION: Ms. Jones moved to deny the physician's proposal for settlement.

SECOND: Dr. Figge

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

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

MOTION PASSED.

F. FORMAL INTERVIEWS

1. MD-18-1172A, YEVGENIY A. KHAVKIN, M.D., LIC. #44750

Dr. Khavkin was present with Attorney Ethan Minkin. Board staff summarized that in July of 2018, Dr. Khavkin performed a spine surgery for patient HK in a Nevada hospital. The hospitalist who dictated the patient's discharge summary indicated that transfer to a Skilled Nursing Facility (SNF) was delayed due to difficulties encountered when working with the insurance policy. HK was admitted to a SNF located in Arizona on the seventh postoperative day and there was no documentation relating to exam of the spine incision during that week of hospitalization. In August, the SNF staff attempted to reach Dr. Khavkin and inform him of the patient's incision status and no response was received. Wound cultures later revealed MRSA infection, and HK was transferred via ambulance back to Nevada where Dr. Khavkin previously performed the surgery. HK was flown back to Arizona the following day with a diagnosis of wound dehiscence and the remainder of the patient's stay was complicated by development of DVT in one leg. HK's incisional wound care was not completed until approximately three months post spine surgery.

The Board's MC found that Dr. Khavkin failed to ensure that the patient received appropriate postoperative care and that there was poor communication in the physician's office. The MC questioned the physician's lack of pursuit as to why the patient did not return for further follow up care after undergoing major spine surgery. Dr. Khavkin reported that the Office Manager involved in this case was terminated from his practice, and that he has implemented changes in his practice to ensure that patients are not lost to follow up care. He explained that he was never personally contacted by any of the providers involved in the patient's care following the spine surgery. The Board noted that Dr. Khavkin documented a follow up appointment with the patient dated January 24, 2019; however, it was also noted that orders for physical therapy were dated March 6, 2019. In response to Dr. Beyer's line of questioning as to what occurred in that time interval, Dr. Khavkin stated that he could not explain the discrepancy in the date, and assured the Board that it will not happen again.

Dr. Khavkin informed the Board that he was not made aware of any issues with the patient's care until receiving notification of the complaint made to the Board. He stated that he was not informed when the patient returned to the hospital in Nevada. Chairman Farmer questioned the physician regarding his typical process for seeing patients in follow up after performing major spine surgery. Dr. Khavkin stated that he usually sees the patient on the first postoperative day, and that the patient is seen by his PA thereafter. Chairman Farmer expressed concern regarding the communication breakdown that occurred in this case, and questioned how the physician was not made aware of the progress of a patient who he testified was being seen by either himself or a member of his staff. Dr. Khavkin agreed that the medical records do not support that daily follow up care occurred for this patient. He stated that from his perspective, the patient was followed for the first two days following surgery and there was nothing alarming about the patient's postoperative course.

Dr. Figge questioned the physician regarding the noted copious discharge from the incisional wound at the time that the patient was discharged to the SNF. Dr. Khavkin stated that he was not notified of any leakage coming from the wound. He stated that he should have been made aware of the status of the incision and that he is extremely anal about wound care. Dr. Khavkin assured the Board that he has implemented clear instructions as to how to proceed and make him aware of any patient concerns. In response to Ms. Bain's line of questioning, Dr. Khavkin reported that there is a mechanism in place for his office to ensure that the patient has moved on to the next phase of care after discharge from surgery. Ms. Bain stated that she found it interesting that the patient returned to the physician for follow up care after filing a complaint with the Board. Dr. Khavkin stated that he believed the patient was pleased overall, and that he did not present for multiple follow up appointments prior to the January 2019 visit.

Dr. Bethancourt expressed concern regarding the failure to notify the physician of the wound infection three weeks following major spine surgery. Ms. Dorrell questioned how the physician has changed his "no-show" policy in the practice since this event occurred. Dr. Khavkin stated that his office attempts to contact patients that do not present for their scheduled appointments, and that they do a better job at documenting those conversations.

MOTION: Ms. Bain moved for the Board to enter into Executive Session to obtain 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, Ms. Jones, and Dr. Krahn. The following Board members were absent: Ms. Bain, Dr. Connolly, Dr. Gillard and Dr. Paul.

VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 4-absent.

MOTION PASSED.

The Board entered into Executive Session at 9:55 a.m.

The Board returned to Open Session at 10:08 a.m.

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

Dr. Khavkin reiterated that he was not sure how the communication breakdown occurred in his office when the nursing staff attempted to reach him regarding the patient's incision status. Dr. Beyer asked how the Board can be confident that a similar incident would not occur in the future. Dr. Khavkin stated that he has done everything he possibly can to ensure that this does not happen again. In closing, Dr. Khavkin stated that he appreciated the Board allowing him to appear to discuss the situation further. Dr. Beyer stated that this was a tough case, and that he found that Dr. Khavkin engaged in unprofessional conduct. Dr. Beyer spoke in favor of sustaining the statutory violations proposed by SIRC.

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

SECOND: Dr. Figge

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

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

MOTION PASSED.

Dr. Beyer stated he found that this matter does not rise to the level of discipline, and stated that an Advisory Letter was warranted. Dr. Beyer stated that there should have been processes in place under the control of the physician to ensure follow up care;

however, Dr. Beyer commented that he did not believe this would have affected the ultimate patient outcome.

MOTION: Dr. Beyer moved to issue an Advisory Letter for inadequate medical records and inadequate postoperative follow up care. 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. Bain

Dr. Krahn stated that the testimony provided by the physician during the Formal Interview was helpful, and that she appreciated the physician's willingness to extend his practice to see patients that are located in underserved areas of Arizona and recognized the inherent challenges when treating this specific patient population. Dr. Krahn spoke in favor of the motion and stated that she noted a myriad of factors that attributed to the unintended outcome. Ms. Jones agreed with Dr. Krahn's comments and stated that having the physician appear before the Board for further discussion was very helpful. Dr. Beyer stated he was shocked to see how many physicians were involved in this patient's care who did not personally contact the physician for his input. Chairman Farmer stated that the physician should have seen the patient in follow up after major spine surgery.

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

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

MOTION PASSED.

2. MD-19-0044A, SEAN P. ELLIOT, M.D., LIC. #27986

Dr. Elliot was present with Attorney Jessica Miller. Board staff summarized that the Board initiated this case after receiving notification from the PHP Contractor that two of the physician's PETH tests were positive for alcohol use in violation of his Stipulated Rehabilitation Agreement (SRA). Dr. Elliot denied having relapsed by consuming alcohol, and attributed the positive test results to alcohol contained in the hand sanitizer in the hospital. Dr. Elliot also reported consuming a non-alcoholic beer over the holiday. Dr. Elliot underwent evaluation and was diagnosed with moderate alcohol use disorder in partial remission. Dr. Elliot admitted to the inadvertent and accident exposure to alcohol by the use of over-the-counter medications. The evaluating facility found the relapse to be minor, and the monitor reported an additional positive PETH test that occurred in March and Dr. Elliot was recommended to enter into residential treatment. The Board subsequently received information from the evaluator wherein the recommendation was changed to intensive outpatient therapy. Dr. Elliot's practice was restricted thereafter via an Interim Consent Agreement (ICA) and he was sent for additional testing by PHP. It was ultimately recommended that Dr. Elliot continue aftercare monitoring for a minimum of two years for which Dr. Elliot entered into an ICA and the practice restriction was vacated.

Ms. Miller stated that the physician was not present to dispute the Board's findings or to request a lighter penalty, but instead wanted to explain to the Board the positive impact his recovery has had in his practice and professional life. Dr. Elliot stated that he was initially in denial regarding his alcohol use disorder, minimized the situation, and refused to accept that he may have a problem. Dr. Elliot stated that by going through the motions associated with that, he is happier today and reported that he had significant changes. Dr. Elliot informed the Board that he attends homegroup meetings daily, and that he had attended a Caduceus meeting the prior evening, and that he attends weekly aftercare therapy sessions. Dr. Elliot stated that he is living in the spirit of sobriety and has been afforded the opportunity to sponsor others in recovery. Ms. Miller asked that the Board consider incorporating into its findings that the physician has continued his aftercare voluntarily.

In response to Dr. Krahn's line of questioning regarding the hand sanitizer issue, Dr. Elliot assured the Board that he will no longer use hand sanitizer in the practice, and will strictly use hand soap and water only, and that he plans to avoid any and all future accidental exposures. Dr. Krahn found that Dr. Elliot committed unprofessional conduct in violation of his Board Order and spoke in support of sustaining a violation of A.R.S. § 32-1401(27)(s).

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

SECOND: Ms. Bain

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

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

MOTION PASSED.

MOTION: Dr. Krahn moved for draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and Five Year Probation, retroactive to September 5, 2019, with terms and conditions consistent with his Interim Order. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board, and Dr. Elliot's request for termination shall be accompanied by a recommendation from his PHP Contractor stating that monitoring is no longer required. The Board's Order shall reflect that the Respondent is voluntarily participating in aftercare activities.

SECOND: Dr. Beyer

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

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

MOTION PASSED.

G. FORMAL INTERVIEWS

1. MD-18-0127A, JANEEN C. R. BJORK, M.D., LIC. #30081

Dr. Bjork was present with Attorney Steve Perlmutter. Board staff summarized that the MC found Dr. Bjork failed to perform an examination of the spine or investigate the patient's pain etiology, prescribed opioids with insufficient evidence of pain, and concurrently prescribed benzodiazepines and opioids. The MC also commented that patient RP should have been referred to a pain clinic and noted that the physician failed to address an aberrant drug screen that was positive for marijuana use. A second MC reviewed the care of patient KM and found that Dr. Bjork deviated from the standard of care by continuing to prescribe opioids with urinary drug screen results that were inconsistent with the medications prescribed. In the case of patient BS, the Board's MC found that Dr. Bjork deviated from the standard of care by continuing to prescribe opioids with urine drug screen results that were inconsistent with the prescribed medications and concurrently prescribed benzodiazepines and opioids. Dr. Bjork further deviated from the standard of care by prescribing opioids to patient BS who tested positive for use of ecstasy, and did not document a discussion with the patient regarding these results. The second MC also reviewed the care provided by Dr. Bjork to patient RP and found that he deviated from the standard of care by prescribing opioids to a patient with an untreated chronic alcohol abuse disorder. Dr. Bjork did document the patient's alcohol use; however, she failed to identify and treat the patient's chronic alcohol abuse disorder. A third MC reviewed RP's care and also found that the physician deviated from the standard of care.

Dr. Bjork pointed out that the MC concluded that there was no evidence that Dr. Bjork's prescribing in the one patient's death by self-inflicted gunshot wound. She stated that the

three additional patients whose charts were reviewed by the Board are still her patients and that she has treated them for over a decade. Dr. Bjork reported that one patient is off opioids, another has significantly tapered her benzodiazepine and opioid doses, and that the third has been transferred to a pain management specialist. Dr. Bjork stated that the MC made an excellent point regarding confirmatory drug screen testing, and that she now routinely performs confirmatory testing on all aberrant drug screen results. Dr. Bjork informed the Board that she completed six hours of a medical recordkeeping CME course in June of 2019, and that she is scheduled to undergo the PACE medical recordkeeping course in January 2020. Dr. Bjork stated that she also completed the prescribing course offered by PACE, and earned 27 CME credit hours as well as other educational courses.

Dr. Perlmutter stated that it is tragic that the physician's patient committed suicide, and that it was clearly unrelated to the care provided by Dr. Bjork. He stated that the physician's medical resources are limited in the rural area of Page, Arizona, and that the only pain management specialist services involve a PA that travels from Utah to Page twice a month. Dr. Perlmutter reported that Dr. Bjork has used this complaint as an opportunity for improvement and voluntarily completed several CME courses to further educate herself in prescribing and medical recordkeeping. He asked that the Board resolve this matter with a non-disciplinary sanction.

Dr. Bethancourt stated that he appreciated that the physician practices in a rural area, and noted the challenges involved with treating rural patient populations. He questioned whether the physician believed that the escalating dose in Alprazolam contributed to the RP's depression. Dr. Bjork stated that the Alprazolam was prescribed for anxiety, which she stated appeared to be a larger component of his behavioral health issues. She stated that she recommended the patient present for behavioral health services, but could not afford the appointments. Dr. Bjork acknowledged that this was not documented in the patient's chart. She stated that she understood the importance of performing urine drug screens to ensure treatment compliance. Dr. Bjork explained that she believed the patients had false positives appearing on their drug screens, but did not perform confirmatory drug screens to further monitor compliance. Dr. Bethancourt further questioned the physician regarding patient RC receiving medications from another provider, as well as regarding the prior motor vehicle accident to which patient BS was involved. Dr. Bjork stated that she discussed the accident with BS who denied any involvement of substance abuse. Dr. Bjork stated that the other providers prescribing for RC were other doctors within her practice.

Dr. Bjork further reported that she has undergone training for the prescribing of Naloxone, but that she has yet to receive her DEA waiver. In closing, Dr. Perlmutter reiterated that Dr. Bjork is a family practitioner practicing in the rural area of Page, Arizona. He stated that the physician's care of these patients was good, but not perfect, and that the issues identified have been or will be addressed by the physician. Dr. Perlmutter added that Dr. Bjork has made significant changes to her clinical practice, and that he was concerned any discipline issued by the Board may interfere with her ability to deliver care to her patients. He asked that the Board consider the health, safety and welfare of the patients located in rural Page when making its final decision in this case.

Dr. Bethancourt stated he found that Dr. Bjork engaged in unprofessional conduct and spoke in favor of sustaining the statutory violations proposed by SIRC. Dr. Bethancourt commented that it appeared the physician has done everything possible to remediate her prescribing practices.

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

SECOND: Ms. Jones

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

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

The Board observed that SIRC recommended the issuance of a Letter of Reprimand with Probation to complete CME in medical recordkeeping and chart review monitoring. Ms. Bain stated that she did not find this case rises to the level of discipline. Dr. Figge agreed and stated that discipline is not warranted based on the mitigating factors including the physician doing her due diligence to recognize that there are potential issues and has taken action to educate herself and change the way she was practicing.

MOTION: Dr. Figge moved to issue an Advisory Letter and Order for Non-Disciplinary CME for inadequate medical records and inappropriate prescribing of controlled substances. 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. Within six months, complete no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding medical recordkeeping. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Bethancourt

Chairman Farmer stated that he remained concerned regarding the large doses and combination of medications prescribed without a heightened level of caution and attention to the patients. Ms. Jones stated that her concerns regarded the multiple chart notes that demonstrate a number of early refill requests being filled by the physician on a consistent basis. Dr. Beyer spoke in favor of the motion and stated that he was fully confident that the physician understands that there were recordkeeping issues identified and has enrolled in the PACE recordkeeping course. Dr. Figge spoke for the motion as well, and stated that the recordkeeping CME should be mandated by the Board to ensure completion by the physician.

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

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

MOTION PASSED.

2. MD-19-0013A, ERIKA L. LAWRENCE, M.D., LIC. #44785

Dr. Lawrence was present with Attorney Gary Fadell. Board staff summarized that the physician was found to have deviated from the standard of care by failing to ensure that proper airway instrumentation and ventilation were checked and immediately available when initiating anesthesia. Dr. Lawrence failed to properly titrate medications in order to maintain airway reflexes, and the MC recognized that Dr. Lawrence was able to quickly and easily intubate the patient once the equipment was available. The MC opined that the dose of Propofol that was administered ablated the patient's airway reflexes and that the delay in critical care led directly to the patient's demise.

Dr. Lawrence stated that the airway equipment was available right outside the door, just a few steps away, and stated that she thought it could be obtained within seconds if needed. She stated that the physician performing the procedure testified that there was no delay in getting the equipment. Dr. Lawrence stated that in hindsight, she would ensure that the equipment was available in the room, but that she did not believe that it would have prevented aspiration of the patient. Dr. Lawrence added that she was able to intubate the patient quickly and easily on her first attempt. In response to the allegation that she failed to titrate the Propofol dose, Dr. Lawrence described her usual titration process. She stated that had she known of the contents in the patient's stomach prior to proceeding with the case, she would have done everything necessary to ensure ability to intubate without issue.

Dr. Krahn questioned the physician regarding the steps she took when she titrated the Propofol dose, resulting in the administration of 100mg. Dr. Lawrence explained that she began administering a dose of 50mg, and titrated in increments of 10mg bolus injections to sedate the patient for scope placement. Dr. Lawrence reported that both the intensivist and cardiologist cleared the patient for the procedure and was NPO for at least eight hours prior to the procedure. In response to Dr. Beyer's line of questioning, Dr. Lawrence confirmed that the incident in question occurred while in the ICU and that the ICU crash cart was the emergency equipment available at the time. Dr. Lawrence stated that blood was noted when the scope was retracted, and that the decision was quickly made to terminate the procedure and intubate the patient.

Chairman Farmer noted that from an anesthesiology perspective, Dr. Lawrence would have learned in training on how to prepare for procedures, and questioned the circumstances that led to her failure to do so in this case. Dr. Lawrence explained that she had worked at the hospital for many years and was confident that everything she needed was available for the procedure. She stated that she could see the airway box right outside the door and knew that it could be retrieved quickly. Dr. Bethancourt questioned whether having the emergency equipment in the room would have affected the outcome, and recognized that the patient was intubated without difficulty. Dr. Lawrence stated that she believed the prolonged CPR sequence contributed to the patient's pneumothorax. In closing, Mr. Fadell stated that the endoscopist involved in the procedure indicated that the intubation process took place fairly quickly after withdrawing the scope, and did not appreciate any delay. Mr. Fadell asked that the Board consider issuing a non-disciplinary sanction to resolve the case.

Board staff readdressed the Board and clarified that the physician cannot assume that the patient's stomach was empty based on no vomiting and the orders for NPO. Board staff stated that with gastrointestinal bleeding, the physician must assume the worst in any situation and follow the appropriate work-up algorithm. Dr. Krahn found that Dr. Lawrence engaged in unprofessional conduct and spoke in favor of sustaining a violation of A.R.S. § 32-1401(27)(r).

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

SECOND: Ms. Jones

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

VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 4-absent.

MOTION PASSED.

Dr. Krahn recognized that SIRC recommended the issuance of a Letter of Reprimand to resolve the case. She stated that based on the testimony provided by the physician, she found that the case does not rise to the level of disciplinary action.

MOTION: Dr. Krahn moved to issue an Advisory Letter for failing to have airway instrumentation and means of ventilation checked and immediately available when initiating anesthesia, and for failure to titrate medications as necessary to maintain the patient's airway reflex. 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. Beyer

Dr. Figge spoke in favor of the motion and stated that the outcome would not have changed had Dr. Lawrence done anything different as the anesthesiologist involved in the case. Chairman Farmer stated that he was concerned that the physician had not learned from this case. He stated that he had not heard the physician acknowledge that it was her

job to ensure appropriate preparation for the procedure. Dr. Bethancourt stated that he found the physician to have engaged in risky behavior, but that he did not believe there was any connection to the bad patient outcome. Dr. Krahn stated that it appeared the physician did not fully appreciate the possibility of an upper gastrointestinal bleed.

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

VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 4-absent.

MOTION PASSED.

CONSENT AGENDA

H. CASES RECOMMENDED FOR DISMISSAL

MOTION: Ms. Jones moved for the Board to dismiss item numbers 1, 3, and 4.

SECOND: Dr. Krahn

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

VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 4-absent.

MOTION PASSED.

1. MD-18-0936A, DENISE S. KULESHA, M.D., LIC. #35234

RESOLUTION: Dismiss.

2. MD-18-1042A, SUJATHA GUNNALA, M.D., LIC. #11933

Ms. Jones pulled this case for discussion due to its complexity, and observed that the MC found that the medical records were incomplete. Dr. Krahn stated that the records pertaining to the complainant were complete, and that there is sufficient information available for the Board to resolve the case. The Board observed that the nurse may have altered the patient's record and questioned whether the matter should be referred to the Arizona Board of Nursing for review. Board staff clarified that the records issue was based on the date that a questionnaire was signed, and that it appeared the document was predated. Dr. Beyer stated that referral to the Nursing Board may not be warranted based on the explanation provided.

MOTION: Dr. Krahn moved for dismissal.

SECOND: Dr. Bethancourt

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

VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 4-absent.

MOTION PASSED.

3. MD-19-0492A, FRANK P. MORELLO, M.D., LIC. #43446

RESOLUTION: Dismiss.

4. MD-19-0139A, M. MARGARET JONES, M.D., LIC. #24023

RESOLUTION: Dismiss.

I. PROPOSED CONSENT AGREEMENTS (Disciplinary)

MOTION: Dr. Krahn moved for the Board to accept the proposed Consent Agreements in item numbers 1-7.

SECOND: Dr. Figge

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

VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 4-absent.

MOTION PASSED.

1. MD-18-0899A, EVAN B. ELLER, M.D., LIC. #27863

RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand and Five Year Probation for PHP participation. Dr. Eller's PHP participation shall be retroactive to February 27, 2019. Dr. Eller shall continue treatment with a PHP Contractor approved psychotherapist as recommended by the PHP Contractor and shall comply with any and all treatment recommendations, including taking any and all prescribed medications. The treating psychotherapist shall submit quarterly reports to PHP at the physician's expense. After one year, Dr. Eller may submit a request to the PHP Contractor for termination of the psychotherapy requirement. Prior to the termination of Probation, Dr. Eller must submit a written request to the Board for release from the terms of this Order.

2. MD-18-0835A, MD-18-0953A, DAWN R. ELLIOTT, M.D., LIC. #49454

RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand and Probation with terms that include a practice proctor, and treatment with a psychologist as recommended by the Facility. If at any time the psychologist opines that additional treatment is not warranted, Dr. Elliot may request termination of this requirement. Prior to the termination of Probation, Dr. Elliot must submit a written request to the Board for release from the terms of this Order.

3. MD-19-0509A, LOIS A. JENSEN, M.D., LIC. #46948

RESOLUTION: Accept the proposed Consent Agreement for Surrender of Licensure.

4. MD-19-0964A, STANLEY STERN, M.D., LIC. #14532

RESOLUTION: Accept the proposed Consent Agreement for Surrender of Licensure.

5. MD-18-0260A, MD-18-0977A, MD-19-0209A, CHARLES H. WAGONER, M.D., LIC. #6634

RESOLUTION: Accept the proposed Consent Agreement for Surrender of Licensure.

6. MD-19-0066A, JEFFREY M. WOLK, M.D., LIC. #33318

RESOLUTION: Accept the proposed Consent Agreement for Surrender of Licensure.

7. MD-19-0919A, ELENA PLUMMER, M.D., LIC. #28734

RESOLUTION: Accept the proposed Consent Agreement for Surrender of Licensure.

8. MD-19-0263A, KHWAJA M. HAQUE, M.D., LIC. #29070

Attorney Steve Myers spoke during the Public Statements portion of the meeting.

The Board recalled the statement provided by the physician's counsel during the Public Statements portion of the meeting wherein it was requested that the Board modify one specific reference under Finding of Fact #4. AAG Smith stated that she reviewed the transcript and that the change requested by Mr. Myers would be accurate.

MOTION: Dr. Figge moved to accept the proposed Consent Agreement for a Letter of Reprimand and modify Paragraph4, Line 22 from "Respondent" to "Prosecutor".

SECOND: Dr. Krahn

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

following Board members were absent: Ms. Bain, Dr. Connolly, Dr. Gillard, and Dr. Paul.

VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 4-absent.

MOTION PASSED.

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

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

MOTION: Dr. Figge moved for the Board to approve the 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: Ms. Jones

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

VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 4-absent.

MOTION PASSED.

END OF CONSENT AGENDA

K. GENERAL CALL TO THE PUBLIC

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

L. ADJOURNMENT

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

VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 4-absent.

MOTION PASSED.

The Board's meeting adjourned on December 10, 2019 at 2:37 p.m.




Patricia E. McSorley, Executive Director