



Arizona Medical Board

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

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FINAL MINUTES FOR SPECIAL TELECONFERENCE MEETING

Held on Thursday, January 9, 2020

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.

GENERAL BUSINESS

A. CALL TO ORDER

Chairman Farmer called the Board's meeting to order at 5:04 p.m.

B. ROLL CALL

The following Board members participated telephonically: Ms. Bain, Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Chairman Farmer, Dr. Figge, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul.

Present among Board staff include: Patricia McSorley, Executive Director; Kristina Fredericksen, Deputy Director; Carrie Smith, Assistant Attorney General (AAG); William Wolf, M.D., Chief Medical Consultant; Raquel Rivera, Investigations Manager; Michelle Robles, Board Operations Manager; and, Andrea Cisneros, Minutes Administrator. AAG Beth Campbell was present for independent legal advice.

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. LEGAL ADVISOR'S REPORT

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

Dr. Gillard commended counsel for her excellent work in her responses to requests. AAG Smith informed the Board that the matter is currently in the discovery phase and offered to provide the Board with further assistance in Executive Session if needed. Dr. Gillard recognized that the Board would be apprised if there are any new developments.

LEGAL MATTERS

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

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

Dr. Fisher was not present during the Board's consideration of this matter. AAG Roberto Pulver was present on behalf of the State. AAG Campbell was present for independent legal advice.

AAG Pulver informed the Board that Dr. Fisher signed a proposed Consent Agreement to surrender his license in lieu of proceeding to Formal Hearing for revocation, and requested that the Board rescind its referral to Formal Hearing and accept the proposed Consent Agreement.

MOTION: Dr. Gillard moved for the Board to rescind the referral to Formal Hearing and accept the proposed Consent Agreement for Surrender of 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. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

CONSENT AGENDA

F. CASES RECOMMENDED FOR DISMISSAL

1. MD-18-0170A, ERIC R. BRAVERMAN, M.D., LIC. #16127

Dr. Braverman participated telephonically and addressed the Board during the Public Statements portion of the meeting.

MOTION: Dr. Gillard moved for dismissal.

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. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

2. MD-18-0894A, GERGES E. MAKAR, M.D., LIC. #49201

Dr. Makar and Attorney Scott King participated telephonically and addressed the Board during the Public Statements portion of the meeting. Complainant KM also participated telephonically and spoke during the Public Statements portion of the Board's meeting.

The Board recalled the statements made during the Public Statements portion of the meeting. Dr. Gillard questioned whether the case should be returned for further investigation due to the conflicting statements regarding the patient's mental status at the time of discharge. Dr. Beyer noted that the matter was reviewed by two Medical Consultants (MCs) and stated that he did not believe additional review was warranted. Dr. Gillard stated that an untoward event occurred after the patient was discharged, and that the family reported that the patient's mental status was not normal at the time of her discharge, which he stated conflicts with statements made by the physician's counsel.

Chairman Farmer observed that one MC opined that the medication dose was small and did not require tapering, while the second MC commented that the physician deviated from the standard of care by failing to taper the medication. Dr. Gillard proposed returning the matter to SIRC for further review and make a determination regarding his concerns.

MOTION: Dr. Gillard moved for the Board to return the matter to SIRC for re-examination and possible further investigation.

SECOND: Dr. Figge

Board staff requested the Board clarify what SIRC should be reviewing during its re-examination of the case. Board staff informed the Board that according to staff review, Dr. Makar was not involved with some of the patient's care during her hospital course, including the time that the Lyrica was discontinued by the consulting neurologist. Board staff added that the case manager documented in the chart the family's desire to have the patient transferred to a group home as soon as possible. Dr. Gillard stated that the seizure medication is not of issue in this case, and reiterated that he would like the matter re-reviewed by SIRC due to the conflicting accounts as to the patient's mental status at the time of her discharge. The Board noted that the hospital records described an altercation that took place involving the patient's family, resulting in the family being asked to leave the patient's room.

The Board clarified that the matter was being returned for SIRC to review the circumstances surrounding the patient's discharge and the patient's mental status at the time of discharge. Board staff informed the Board that SIRC's re-review would most likely result in the case being forwarded for a third MC's review and opinion. Dr. Beyer spoke against the motion and stated that the matter should be dismissed. Dr. Krahn stated that this was a very sad and complicated situation. She stated that third MC review may not provide the type of clarity the Board is seeking.

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

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

MOTION FAILED.

Chairman Farmer commented that the Board has a great deal of sympathy for the family involved in this difficult situation.

MOTION: Dr. Krahn moved for dismissal.

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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

G. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Dr. Beyer moved for the Board to issue an Advisory Letter in item numbers 1, 2, 3, and 6.

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. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

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

Attorney Christina Chait participated telephonically and addressed the Board during the Public Statements portion of the meeting on behalf of Dr. Parekh.

RESOLUTION: Issue an Advisory Letter for inadequate documentation. 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.

2. MD-19-0479A, JOSHUA A. KOLB, M.D., LIC. #52890

RESOLUTION: Issue an Advisory Letter for inadequate documentation. 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.

3. MD-19-0826A, NORINA D. WITT, M.D., LIC. #52618

RESOLUTION: Issue an Advisory Letter for failing to timely disclose a reportable misdemeanor charge. 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.

4. MD-19-0111A, JOEL D. THOMPSON, M.D., LIC. #29611

Chairman Farmer was recused from this case. Dr. Figge stated that he knows Dr. Thompson professionally, but that it would not affect his ability to adjudicate the case.

MOTION: Ms. Jones moved for the Board to issue an Advisory Letter for failing to order and monitor lab work in a postoperative patient receiving anticoagulation and for failing to review and investigate the patient's extended hospital stay and requirement for skilled nursing facility placement. 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

Dr. Beyer questioned SIRC's rationale as to why this matter does not rise to the level of disciplinary action. Board staff summarized that when the MC reviewed Dr. Thompson's supplemental response to the MC's initial findings, the MC recognized that Dr. Thompson was not aware of the patient's continued presence at the hospital until he was questioned regarding an order for a benzodiazepine which he discontinued. The MC found that it was not clear what information, if any, was relayed to the physician regarding the circumstances requiring the patient's continued hospital stay. Dr. Figge commented that the physician did not have the information in order to change anything in this patient's hospital course until it was too late.

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

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

MOTION PASSED.

5. MD-19-0274B, RODNEY A. STEWART, M.D., LIC. #27962

Attorney Mandi Karvis participated telephonically and addressed the Board during the Public Statements portion of the meeting on behalf of Dr. Stewart.

Dr. Beyer stated that based on his review of the case, it did not appear that the physician should have done anything differently in the care provided. He stated that an Advisory Letter was not warranted and spoke in favor of dismissal.

MOTION: Dr. Beyer moved for dismissal.

SECOND: Dr. Figge

Dr. Figge recalled that the Board had dismissed similar cases in the past, and stated that the situation is similar in that there was a bad outcome due to a system failure that was not due to any fault of the physician. Dr. Bethancourt spoke against the motion and stated that this issue comes before the Board repeatedly with regard to corrections facilities. He questioned how the system failures can be corrected to prevent further problems. Chairman Farmer questioned which regulating body was responsible for

overseeing the Department of Corrections. AAG Smith reported that Corizon no longer provides health care for the prison system, and that another agency has assumed that role. Chairman Farmer also asked about where the Board would report that these system issues have come before the Board a number of times. AAG Smith stated that she would look into the issue and report back to the Board with additional information.

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. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

6. MD-19-0267A, RODNEY H. OHMART, M.D., LIC. #20997

RESOLUTION: Issue an Advisory Letter for failure to maintain professional boundaries. 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.

7. MD-18-1120A, DUSTIN G. MORRIS, M.D., LIC. #30224

Dr. Paul observed that Dr. Morris prescribed a medication to which the patient was allergic. He noted that the medication error was not picked up by the electronic medical record nor was it caught by the pharmacist. Dr. Paul spoke in support of dismissal, stating that there did not appear to be any patient harm that occurred as a result of the medication error.

MOTION: Dr. Paul moved for dismissal.

SECOND: Dr. Beyer

Chairman Farmer stated that physicians commit human errors, and questioned whether the physician in this case acted responsibly in recognizing the error and did his best to mitigate the issue. Ms. Jones questioned whether the patient's subsequent hospitalization was related to the medication error. Dr. Paul stated that he interpreted the information from the chart to affect that the subsequent hospitalization was not related to any adverse reaction to the medication. Ms. Jones noted that the patient involved in this case was under the care of Adult Protective Services at the time of the incident, and stated that because this was a vulnerable adult, the patient may not have the ability to inform the health care team of any medication allergies. She questioned whether the patient was accompanied by a caregiver during the doctor visits. The Board recognized that the caregiver is not present during the doctor visits due to patient confidentiality.

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. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

8. MD-19-0779A, ROBERT S. MINDELL, M.D., LIC. #18971

Dr. Figge observed that despite the physician sending emails to his clients informing them that he could no longer prescribe controlled substances, the nurse called in controlled substance prescriptions under Dr. Mindell's DEA registration number. Dr. Figge noted that Dr. Mindell did not have access to the Controlled Substance Prescription Monitoring Program (CSPMP) to verify whether any controlled substance prescriptions had been filled. Dr. Figge stated that this appeared to have been done without the physician's knowledge and stated that he did not believe it constituted a violation of Dr. Mindell's Board Order. Dr. Figge spoke in support of dismissal and questioned whether the nurse had been referred to the Arizona Board of Nursing for review.

MOTION: Dr. Figge moved for dismissal.
SECOND: Dr. Krahn

Board staff reported that the nurse had not yet been referred to the Arizona Board of Nursing for review. Dr. Figge instructed the Board's staff to refer the nurse for review of her involvement in this case; specifically, her calling in orders for controlled substances under the physician's DEA registration number without the physician's knowledge.

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. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.

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

1. MD-19-0592A, JAMES S. GOUGH, M.D., LIC. #7317

MOTION: Dr. Figge moved for the Board to issue an Advisory Letter and Order for Non-Disciplinary CME for prescribing multiple, sympathomimetic medications to an older, obese, hypertensive patient. While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against the licensee. Within six months, complete no less than 15 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding psychiatric psychopharmacology. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Paul

Dr. Beyer questioned whether the Board should require a more specific type of CME course to better address the issues identified in this case. The Board noted that SIRC recommended the completion of an intensive, in-person course regarding the prescribing of controlled substances. Dr. Krahn stated that she was concerned that the physician's knowledge of medications was limited. She proposed requiring CME in general prescribing to ensure his prescribing practices are appropriate. Dr. Krahn clarified that the physician should be required to complete CME in psychiatric pharmacology in addition to 2 hours of CME covering the subject of controlled substance prescribing. The Board and its staff discussed intensive CME courses available for the physician to satisfy the Board's concerns regarding his prescribing, and whether a psychopharmacology course would cover the prescribing of controlled substances. Drs. Figge and Paul agreed to the friendly amendment of replacing the controlled substance prescribing course with 15 hours of CME in an intensive, in-person course regarding psychiatric psychopharmacology.

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. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.

I. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

MOTION: Dr. Figge moved for the Board to uphold the dismissal in item numbers 1-3.

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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.

1. MD-19-0365A, DONNA R. LONG, M.D., LIC. #29027

Complainant PW was present and addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Uphold the Dismissal.

2. MD-19-0365B, ROXANNE E. G. ORR, M.D., LIC. #40755

Complainant PW was present and addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Uphold the Dismissal.

3. MD-19-0861A, PETER S. COURY, M.D., LIC. #27809

RESOLUTION: Uphold the Dismissal.

J. PROPOSED CONSENT AGREEMENTS (Disciplinary)

MOTION: Dr. Gillard moved for the Board to accept the proposed Consent Agreements in item numbers 1 and 2.

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. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

1. MD-18-1173A, EUN M LEE, M.D., LIC. #29485

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

2. MD-19-0883A, LISA S. EMMANS, M.D., LIC. #29814

RESOLUTION: Accept the proposed Consent Agreement for License Reactivation and Five Year Probation to participate in PHP. In the event of a violation of A.R.S. § 32-1401(27)(f) or use of drugs or alcohol in violation of this Order, the licensee has be summarily suspended pending a hearing for revocation of licensure. In the alternative, Dr. Emmans may surrender the license if she agrees in writing to being impaired by alcohol or drug abuse.

K. LICENSE APPLICATIONS

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

MOTION: Dr. Krahn moved for the Board to approve the license application in item numbers 1 and 2.

SECOND: Dr. Gillard

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. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

1. MD-19-1023A, IVAN M. GUTIERREZ, M.D., LIC. #N/A

RESOLUTION: Approve the license application.

2. MD-19-1127A, ERNEST M. Y. MAK, M.D., LIC. #N/A

RESOLUTION: Approve the license application.

3. THIS CASE WAS PULLED FROM THE AGENDA.

ii. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING RENEWAL APPLICATION

1. MD-19-1138A, BARBARA M. H. FONG, M.D., LIC. #15294

Dr. Fong participated telephonically and addressed the Board during the Public Statements portion of the meeting.

MOTION: Dr. Gillard moved for the Board to grant the license renewal.

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. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

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

1. BETH L. ROACH, M.D., LIC. #N/A

Dr. Roach participated telephonically and addressed the Board during the Public Statements portion of the meeting.

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: Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Chairman Farmer, Dr. Figge, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board member abstained from the vote: Ms. Bain.

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

MOTION PASSED.

OTHER BUSINESS

L. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-14-1007A, ROBERT J. RAUSCHER, M.D., LIC. #13109

Dr. Gillard noted that the Board Order has been in effect since 2016, and that the PHP Monitor submitted correspondence in support of Dr. Rauscher's request for termination.

MOTION: Dr. Gillard moved for the Board to grant the request to terminate Dr. Rauscher's December 19, 2016 Board Order.

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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

M. GENERAL CALL TO THE PUBLIC

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

N. ADJOURNMENT

MOTION: Dr. Gillard moved for adjournment.

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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Board's meeting adjourned at 6:38 p.m.



Patricia E. McSorley

Patricia E. McSorley, Executive Director