



## **Arizona Medical Board**

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

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

**Held on Thursday, February 6, 2020**

**And Friday, February 7, 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.

**Thursday, February 6, 2020**

#### **GENERAL BUSINESS**

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

Chairman Farmer called the Board's meeting to order at 8:12 a.m.

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

The following Board members were present: 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 was absent: Ms. Bain.

Present among Board staff include: Patricia McSorley, Executive Director; Kristina Fredericksen, Deputy Director; Carrie Smith, Assistant Attorney General (AAG); Anne Froedge, AAG; Mary D. Williams, 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. AAG Elizabeth Campbell was present for independent legal advice on matters as referenced 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. EXECUTIVE DIRECTOR'S REPORT**

- **Legislative Update**

Executive Director McSorley updated the Board regarding pending legislation, and stated that discussions are being held regarding legislation that may affect the Board's ability to discipline providers prescribing long-term antibiotics for the treatment of certain diseases.

She stated that another bill that may of interest of the Board involves the creation of a new license referred to as Assistant Physician that would be regulated by the Board. She stated

that this license would not require post graduate training and would require the provider to practice under a collaborating physician. Ms. McSorley explained the proposed licensing requirements and scope of practice for Assistant Physicians and responded to Board member questions regarding the bill. Chairman Farmer stated that this bill, HB2419, has implication for this Board and should be followed closely.

Executive Director McSorley also updated the Board regarding HB2051 which would require that informed consent is obtained prior to performing anesthesia for pelvic exams that are to be given to patients that are unconscious. Dr. Figge stated that this will improve the patient's ability to meet and come to an understanding with all providers that will be involved in their examination; which he stated has not always been made clear ahead of time. Dr. Figge stated that these requirements will allow for much clearer paperwork and discussion between the providers and patients.

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

- **Update on upcoming FSMB Meeting**

Chairman Farmer reported that the annual FSMB Meeting will be held in San Diego, California this year and encouraged Board members to contact the Executive Director if they wanted to attend.

- **Discussion Regarding New IT and Technology Options for Board Members**

Chairman Farmer recalled that the Board members were previously issued laptops and that the Board later transitioned to a virtual desktop interface (VDI) to increase Board member convenience. He stated that the Agency would like the Board to revisit having laptops issued for Board-related matters for the purposes of security and protection of personal devices. Dr. Krahn stated that she supported anything that would help to improve the Board's ability to better serve the public. Ms. Jones questioned whether the Board members would have the ability to print from the proposed devices as it is part of her review process and for taking notes for the Board's meetings. Deputy Director Fredericksen stated that she would research Ms. Jones' concern and report back to the Board. Chairman Farmer volunteered to test the new device and report back with any issues before implementing any changes.

AAG Smith clarified for the Board that in terms of the different levels of protection, the clearest avenue to pursue would be a dedicated email for Board related matters and a State-issued device for conducting Board business with the second best option being the use of VDI. Deputy Director Fredericksen informed the Board that the IT staff were available to meet with the individual members to help set up their Board email.

Board members also discussed the potential use of video conferencing during its off-month teleconference meetings.

- **Discussion Regarding Board Member Communication Issues**

Chairman Farmer stated that the Board will be receiving training on this topic during its Training Special Meeting. The Board discussed the use of email and text messaging and compliance with open meeting laws. Chairman Farmer also stated that on the second day of the meeting, the Board will discuss its Committees and appoint members.

- **Discussion Regarding Additional Agenda Item for Board Member Debriefing on Board Processes**

Chairman Farmer proposed that the Board include this Agenda Item for future regular session meetings to allow for Board member discussion and questions regarding the Board's processes.

- **Announcement of Board Member Resignation**

Chairman Farmer reported that Dr. Connolly will no longer be serving on the Board. The Board thanked Dr. Connolly for her service to the citizens of Arizona and presented her with a certificate of appreciation.

## **F. APPROVAL OF MINUTES**

- December 2, 2019 Special Teleconference, including Executive Session
- December 9-10, 2019 Regular Session, including Executive Session

**MOTION: Dr. Gillard moved for the Board to approve the December 2, 2019 Special Teleconference, including Executive Session; and, the December 9-10, 2019 Regular Session, including Executive Session.**

**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 was absent: Ms. Bain.**

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

**MOTION PASSED.**

## **LEGAL MATTERS**

### **G. DISCUSSION AND POSSIBLE ACTION REGARDING RESPONDENT'S SETTLEMENT PROPOSAL**

1. MD-16-0001B, MAQBOOL A. HALEPOTA, M.D., LIC. #31459

Dr. Beyer stated that he knew Dr. Halepota professionally and that it would not affect his ability to adjudicate the case. Dr. Halepota was present with Attorney Dr. Zaheer Shah. AAG Williams was present on behalf of the State. AAG Campbell was present as the Board's Independent Legal Advisor.

Dr. Shah stated that an expert retained by Dr. Halepota rendered an opinion that Dr. Halepota met the standard of care by treating the patient with interferon. Dr. Shah argued that mitigating factors in this case include that the physician discussed with the patient the high mitotic rate found in the primary lesion and the fact that the lesion itself was relatively deep.

AAG Williams updated the Board regarding the intervening events that occurred since the case was referred to the Office of Administrative Hearings for a Formal Hearing, which had been done at the request of the physician in lieu of a Formal Interview. She stated that there are two competing expert opinions as to whether Dr. Halepota deviated from the standard of care in his treatment of patient KS, and that the MC in this case has been unavailable due to a medical condition. AAG Williams informed the Board that staff had been unsuccessful in their attempts to contact the MC to determine whether or when he would be available to appear at the Formal Hearing. She stated that the State would not be opposed to dismissing the complaint.

Dr. Shah readdressed the Board and formally requested that this matter be dismissed based on the mitigating circumstances.

**MOTION: Dr. Gillard moved for the Board to rescind its referral to Formal Hearing and dismiss the case.**

**SECOND: Dr. Paul**

Dr. Krahn stated that she found the presentation very helpful in understanding this complicated situation. She stated that she views more favorably the physicians' decision-making in this case. Dr. Bethancourt spoke in favor of the motion for dismissal. Chairman Farmer stated that it is important to note that guidelines have to be interpreted in context.

**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 was absent: Ms. Bain.**

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

**MOTION PASSED.**

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

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

Dr. Krahn was recused from this case. Attorney Scott King was present on behalf of Dr. Patel. AAG Froedge was present on behalf of the State. AAG Campbell was present as the Board's Independent Legal Advisor.

AAG Froedge summarized that this case involved issues relating to the Physician Health Program (PHP) and other acts of unprofessional conduct surrounding the physician's PHP participation. She stated that the Board considered the matter previously for consideration of settlement, and that the State opposed any resolution of this case short of license surrender. AAG Froedge stated that after three years of the lengthy investigation, there continued to be too many blurred lines regarding the physician's conduct. She stated the Board received additional information in the interim and those lines became clearer that Dr. Patel was not ready to return to the practice of medicine. AAG Froedge stated that the physician has made the difficult decision to surrender his license and asked that the Board rescind its referral to the Office of Administrative Hearings and accept the proposed Consent Agreement.

Mr. King asked that the Board accept the Consent Agreement as signed by Dr. Patel..

**MOTION: Dr. Gillard moved for the Board to rescind its referral to Formal Hearing and accept the proposed Consent Agreement for surrender of 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, Dr. Gillard, Ms. Jones, and Dr. Paul. The following Board member was recused: Dr. Krahn. The following Board member was absent: Ms. Bain.**

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

**MOTION PASSED.**

## **I. FORMAL INTERVIEWS**

### **1. MD-19-0092A, RICHARD J. CHAMBERLAIN, M.D., LIC. #22292**

Dr. Chamberlain was present with Attorney Flynn Carey.

Board staff summarized that this matter stemmed from a self-report from Dr. Chamberlain that he was charged with unlawful discharge of a firearm and disorderly conduct and endangerment. During the course of the Board's investigation, Dr. Chamberlain was evaluated and was deemed safe to practice with no recommendations for monitoring. Dr. Chamberlain ultimately pled guilty to a class 6 felony, and after completion of his Court-ordered probation, the charge was reduced to a misdemeanor.

Dr. Chamberlain apologized for his mistake and stated that he recognized that the outcome could have been far worse than it was, and that he was grateful no one was hurt. Dr. Chamberlain explained to the Board what happened the evening that his gun accidentally discharged. Dr. Chamberlain stated that in retrospect, there are many things he would have done differently and assured the Board that he would not repeat the same mistake. Mr. Carey stated that this matter was resolved as a misdemeanor offense and that the physician has already been punished by the justice system. He asked that the Board consider a non-disciplinary outcome as there was no patient care involved and stated that this was a learning experience for the physician.

Ms. Jones stated that the physician appeared contrite and remorseful for the incident. Dr. Chamberlain explained in response to Ms. Jones' line of questioning that he had consumed 2-3 beers at the time and that he sustained injury to his fingers as well as ringing in the ears that persisted for several hours. Dr. Chamberlain stated that the event did not affect his friendship with his neighbor with whom he reported to be on good terms. Mr. Carey stated that the restitution ordered by the Court for the repairs caused by the

accidental discharge of the firearm was paid at the time of sentencing. Dr. Gillard recognized that the Court reduced the charge to a misdemeanor after the physician successfully completed probation. Dr. Gillard questioned whether the physician reported the charge to the Board within the ten days required by statute. Dr. Beyer questioned whether the designation to a misdemeanor offense affected the Board's ability to sustain a violation of A.R.S. § 32-1401(27)(d).

**MOTION: Dr. Beyer 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. Jones**

**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 was absent: Ms. Bain.**

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

**MOTION PASSED.**

The Board entered into Executive Session at 10:16 a.m.

The Board returned to Open Session at 10:24 a.m.

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

Board staff informed the Board that Dr. Chamberlain reported the charge to the Board within the ten days required by A.R.S. § 32-3208. Mr. Carey reiterated that the charge was ultimately reduced to a misdemeanor offense as deemed appropriate by the Court. Ms. Jones stated that she found the physician engaged in unprofessional conduct in violation of A.R.S. § 32-1401(27)(d) for reasons as stated by SIRC.

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

**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 was absent: Ms. Bain.**

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

**MOTION PASSED.**

Ms. Jones stated that after hearing the physician's testimony at today's proceedings, she believed that he understands that this could have resulted in a different outcome. She stated that the physician has demonstrated remorse for what his actions and recognized that he has successfully completed the Court-ordered probation with ultimate reduction to a misdemeanor offense. Ms. Jones found that the case did not rise to the level of discipline based on the mitigating circumstances.

**MOTION: Ms. Jones moved for the Board to issue an Advisory Letter for pleading guilty to a Class 6 felony. While the licensee has demonstrated substantial compliance through rehabilitation or remediation, the board believes that repetition of the activities that led to the investigation may result in further board action against the licensee.**

**SECOND: Dr. Gillard**

Dr. Figge spoke in favor of the Advisory Letter based on the mitigating circumstances and physician remediation. Dr. Bethancourt also spoke in support of the motion, and stated that this was clearly an accident where poor judgement was involved.

**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 was absent: Ms. Bain.**

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

**MOTION PASSED.**

2. MD-19-0265A, MIGUEL A. ARENAS, M.D., LIC. #33383

Complainant MP spoke during Public Statements portion of the meeting.

Dr. Arenas was present with Attorney Tom Slutes. Board staff summarized that the MC found that Dr. Arenas deviated from the standard of care in this case by failing to recognize and treat postoperative complications of colonoscopy, failing to recognize complications of his procedure and then act accordingly, and failing to follow up on the patient's disposition and status. The MC additionally found that Dr. Arenas' care was negligent and that his documentation was inaccurate due to his failure to correct the operative template.

In response to Dr. Bethancourt's line of questioning, Dr. Arenas stated that he saw the patient every thirty minutes after the procedure as is typical of his practice. He stated that the patient's abdominal pain improved as the morning progressed, and that the patient was able to move her lower extremities when he saw her. Dr. Arenas stated that the clinical picture when the patient arrived at the ER was completely different than the clinical picture he had when she was under his care. Dr. Paul questioned whether the physician approached high risk patients such as this in a more cautious manner. Dr. Arenas explained this case involved an unusual patient and that after the colonoscopy, he discussed with the patient and spouse the need for colostomy to address the retained air and the decision was made to transfer the patient to the hospital. Dr. Paul recognized that colonic perforation is a known complication from colonoscopy.

Dr. Arenas stated that he realized there was a breakdown in communication between himself and the nurse involved in this case. He stated that he saw the patient and asked her to move side to side, and that is when he observed her moving her lower extremities. He stated that concerns regarding her ability to feel her lower extremities were not brought to his attention. Dr. Figge questioned why an ambulance was needed if the patient's abdominal pain was improving. Dr. Arenas stated that the patient was not able to pass the retained air in her abdomen, and that the plan was hospital transfer for colostomy. Dr. Arenas stated that he believed the patient developed the inability to move her lower extremities after leaving the surgery center.

Dr. Beyer questioned what the physician believed caused the perforation in the patient's colon. Dr. Arenas stated that the pressure from the retained air caused tension that led to the perforation in the colon. Dr. Bethancourt observed that the nursing staff documented the patient's issues with her lower extremities prior to discharge. Dr. Arenas stated that the information was not communicated to him and reiterated that the patient was moving her lower extremities when he last saw her. Dr. Figge noted that this was a very difficult and complicated case. Dr. Arenas stated that the findings were unexpected and devastating to him, and that he has made changes in his facility as a result of this case. Mr. Slutes urged the Board to consider that this has been a traumatizing experience for the physician and resolve the matter with a non-disciplinary Advisory Letter.

Dr. Bethancourt stated that he did find there was unprofessional conduct committed by the physician in violation of A.R.S. § 32-1401(27)(e) and (r) as recommended by SIRC.

**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: Dr. Krahn**

Dr. Bethancourt stated that he was concerned regarding several issues in this case. He stated that there appeared to be a lot of discrepancies between the physician's testimony and what is contained in the medical record and documented by nursing staff. Dr. Bethancourt questioned how much attention the physician paid to what was going on in the recovery room while in the midst of doing ten cases within a four and one half hour period. Dr. Krahn stated that she too struggled with the discrepancies in this case. She stated that the physician has to ensure good communication between himself and the nursing staff.

**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 was absent: Ms. Bain. VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent. MOTION PASSED.**

**MOTION: Dr. Bethancourt moved for draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand. SECOND: Dr. Krahn**

Dr. Figge stated that he was not convinced that the perforation did not occur earlier given the nursing staff documentation. Dr. Figge spoke in favor of the motion and stated he agreed that this matter rises to the level of discipline. Chairman Farmer recognized that the physician has taken some significant remedial action. Dr. Bethancourt expressed doubt regarding the physician's assertion that the complication occurred during the patient's transport by paramedics. Dr. Connolly commented that she found it challenging to track the timeline in this case, and stated that it troubled her to hear the physician's comments regarding the paramedics. She stated that the physician is ultimately responsible for the care of the patient.

**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 was absent: Ms. Bain. VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent. MOTION PASSED.**

## **J. FORMAL INTERVIEWS**

### **1. MD-18-0100A, ARNOLD H. MEYEROWITZ, M.D., LIC. #13263**

CJ, JJ and SE addressed the Board on behalf of Dr. Meyerowitz during the Public Statements portion of the meeting.

Dr. Meyerowitz was present with Attorney Dr. Steve Perlmutter. Board staff summarized that this matter involved the inappropriate prescribing of controlled substances. The Board reviewed Respondent's care and treatment of seven patients. During the course of the Board's investigation, Dr. Meyerowitz entered into an Interim Consent Agreement for Practice Restriction prohibiting him from prescribing controlled substances while the matter was pending.

Dr. Perlmutter noted that three individuals spoke on the physician's behalf during the Public Statements portion of the meeting. Dr. Perlmutter informed the Board that Dr. Meyerowitz completed the PACE course regarding controlled substance prescribing and requested that the Board take into account mitigating circumstances. Dr. Meyerowitz stated that the standards have changed over time with regard to the prescribing of opiates for chronic pain. He stated that it has been difficult to gain employment since his license has been restricted. He stated that he inherited these patients who were already prescribed pain medication and found that they were functioning fine on the doses they were receiving.

Dr. Figge questioned the physician regarding his training and Dr. Meyerowitz stated that he did not have formal training in pain management. He stated that he has made every effort to keep himself up to date with CME and that he has done a lot of CME in pain management. Dr. Figge commented that while there was no actual patient harm identified in the cases reviewed, there was the potential for patient harm relating to the medication combinations prescribed by the physician. In response to further questioning by Dr. Figge, Dr. Meyerowitz spoke in favor of the PACE course. He stated that if he were to inherit similar patients today, he would attempt to titrate their doses to some degree to minimize the risk of potential harm. The Board noted that there were concerns raised regarding the physician's continued prescribing of controlled substances after his license was restricted, and Board staff clarified that four of the eleven prescriptions that appeared

on the CSPMP report were written after the date of the Practice Restriction and were alleged to be forgeries, and that the remaining prescriptions were pharmacy error.

Dr. Beyer questioned the physician regarding the use of pain contracts and drug screening in his practice. Dr. Meyerowitz stated that 30% of his patients were chronic pain patients, while the remainder of his patients were geriatric with chronic conditions. Dr. Figge observed that Dr. Meyerowitz documentation was inadequate with regard to drug screen results. The physician assured the Board that he will be making changes to his prescribing habits and documentation. Dr. Krahn questioned Dr. Meyerowitz in relation to how he discerns a patient's pain problem that may have evolved into more of an addiction. Dr. Meyerowitz stated that the difference between patient dependence and addiction relates to whether the patient uses the pain medication for reasons other than for which they are prescribed.

In closing, Dr. Perlmutter argued that none of the patients reviewed by the Board experienced any harm. He stated that Dr. Meyerowitz learned a tremendous amount of information from the PACE course, and can do a great deal of good if permitted to continue with an unrestricted license. Dr. Meyerowitz stated that he would be grateful to be able to practice and interact with patients clinically again without restrictions on his license.

Dr. Figge found that Dr. Meyerowitz engaged in unprofessional conduct in relation to medical recordkeeping and the potential for patient harm.

**MOTION: Dr. Figge moved for findings of unprofessional conduct in violation of A.R.S. §§ 32-2401(27)(e) and (r) for reasons as stated by SIRC.**

**SECOND: Dr. Paul**

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

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

**MOTION PASSED.**

Dr. Figge stated that there was significantly high potential for patient harm given the combinations of medications involved. Dr. Figge stated that while he believed the case rises to the level of discipline, he questioned whether a practice restriction was warranted in light of the mitigating factors and training. Dr. Paul agreed with Dr. Figge's comments and stated that he was impressed with what the physician appeared to have learned from completing the PACE course. Dr. Paul stated that he was concerned regarding the physician's prior history with the Board, and stated that if the Board permits him to continue prescribing, his practice needs to be monitored.

Dr. Krahn stated that she was impressed with the way Dr. Meyerowitz handled the Board's questioning. She noted that the case involved complicated patients and stated that overall, it was very helpful to have the physician present for a Formal Interview to discuss the matter further and hear what the physician's decision making processes are now in 2020. Dr. Paul noted that the physician's recordkeeping lacked the documentation required for justifying the clinical rationale as to why the patients' medication doses are outside of what would be expected. Dr. Beyer noted that Dr. Perlmutter proposed language to the Board in the case materials with regard to probationary terms that would involve monitoring of the physician's practice.

Dr. Gillard recognized that Dr. Meyerowitz has been in practice for a considerable amount of time, and agreed that there are mitigating circumstances involved in this case. He noted that Dr. Meyerowitz received 27 CME credits for completing the PACE prescribing course, and that the physician appeared to understand the problem with his prescribing practices. Chairman Farmer noted that Dr. Perlmutter's proposal would ostensibly balance protecting the public while allowing the physician to return to practice.



**MOTION: Dr. Figge moved for draft Findings of Fact, Conclusions of Law and Order for Letter of Reprimand and Two Year Probation. Within thirty days, the physician shall enter into a contract with a Board-approved monitoring company to perform periodic chart reviews at the physician's expense. After two consecutive favorable chart reviews, the physician may petition the Board for Probation termination. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board. Additionally, the Executive Director shall be directed to terminate the current Interim Practice Restriction for controlled substance prescribing.**

**SECOND: Dr. Gillard**

Dr. Figge stated that he did not believe a practice restriction was warranted at this time, and spoke in support of terminating the Interim Practice Restriction. Dr. Figge stated that the intent of the chart review monitoring is to ensure that the physician is documenting appropriately. Dr. Krahn requested that the draft Order be placed on the Board's March 2020 teleconference meeting.

**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 was absent: Ms. Bain.**

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

**MOTION PASSED.**

**2. MD-18-1151A, PAREED ALIYAR, M.D., LIC. #24775**

Dr. Aliyar was present with Attorney Maria Nutile. Board staff summarized that in May of 2019, Dr. Aliyar entered into an Interim Practice Restriction prohibiting the physician's interventional cardiology practice and required that he obtain a proctor to monitor ten cases. The proctor found no issues and deemed Dr. Aliyar safe to continue practicing without further monitoring. The Board's Order was then modified to that affect in August of 2019. Dr. Aliyar underwent a neuropsychological evaluation and some apparent lapses in attention were noted. The results of the evaluation did not support the prior PACE exam results with regard to lapses of concentration, but found that the physician should probably not engage in invasive interventional procedures. The Board's MC reviewed five patients' charts and found that Dr. Aliyar deviated from the standard of care in terms of patient selection and procedure selection, and his procedure technique was found to be subpar.

Ms. Nutile stated that in the matters of MH and SC, the physician admitted that his technique at the time did require additional training, which he received and has performed over 100 of these procedures since that time. Ms. Nutile stated that Dr. Aliyar completed the neuropsychological evaluation and suggestion was made that he undergo an eye exam and hearing test. Dr. Aliyar presented for both evaluations and corrections were made, and Ms. Nutile pointed out that English is Dr. Aliyar's second language and that this may have affected his performance during the neuropsychological evaluation. Ms. Nutile asked the Board to consider allowing Dr. Aliyar to perform interventional cardiology procedures with an on-site proctor approved by the Board.

Dr. Beyer observed that review of the ten cases demonstrated that operator technique contributed to the adverse outcomes. Dr. Beyer appreciated the concerns raised by counsel and expressed concern regarding the physician's ability to perform a highly complex technical procedure in the cath lab. Dr. Beyer commented that while the proctoring may have satisfied the hospital's concerns, there is some cause for concern that this physician's technique may not be at the level it needs to be to ensure the Board that he has the ability to practice safely in the cath lab. Dr. Aliyar explained that the procedure was fairly new to him, that he identified the problem and corrected his technique, and that he has not encountered a similar complication since.

Dr. Bethancourt questioned the physician regarding when he began performing trans-radial catheterization procedures and the type of training he received. Dr. Aliyar stated that he attended a one-day conference in Nevada, and began performing these

procedures in February of 2018. Dr. Aliyar stated he was not aware that he had any cognitive deficiency and stated that at the time of his evaluation, he had not yet corrected his hearing or vision. Dr. Krahn noted that there was very little change made to correct Dr. Aliyar's hearing and vision. Dr. Aliyar agreed that the corrections did not make a major change to his hearing or vision. Dr. Krahn also observed that Dr. Aliyar's evaluation that was completed after the corrections were made continued to show a significant low score in the area of confrontational naming. Dr. Aliyar attributed these findings to English being his second language and assured the Board that he has no problems with cardiology related terminology.

In closing, Dr. Aliyar stated that he is capable and competent in these procedures going forward. Ms. Nutile stated that because English is the physician's second language, he needed more time during the testing to translate the terms to his native language and then to English. She asked that the Board consider allowing the physician to continue performing these procedures under the monitoring of a Board-approved proctor. Dr. Beyer stated he found that the physician engaged in unprofessional conduct in violation of A.R.S. § 32-1401(27)(r) for reasons as stated by SIRC.

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

**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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board member was absent: Ms. Bain.**

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

**MOTION PASSED.**

Dr. Beyer stated he found that this matter rises to the level of discipline and that he struggled with whether a pathway existed to allow the physician to continue to perform these technically demanding procedures in the cath lab. Dr. Beyer stated that he was concerned with Dr. Aliyar's complication rate in addition to the evaluation reports from PACE and the neuropsychological evaluator. Dr. Krahn stated that she remained concerned regarding protecting the public and stated that proctoring may not be sufficient in this case. Dr. Krahn stated that she believed allowing the physician to continue to practice non-interventional cardiology was a safer course for patients. Dr. Bethancourt stated that he shared Dr. Krahn's concerns. Chairman Farmer echoed Dr. Beyer's comments that he was more concerned regarding the physician's ability to perform procedurally than his ability to see patients in the clinic.

**MOTION: D. Beyer moved for draft Findings of Fact, Conclusions of Law and Order for Letter of Reprimand and Practice Restriction prohibiting Dr. Aliyar from performing invasive or interventional cardiology or vascular procedures.**

**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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board member was absent: Ms. Bain.**

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

**MOTION PASSED.**

## **CONSENT AGENDA**

### **K. CASES RECOMMENDED FOR DISMISSAL**

**MOTION: Dr. Paul moved for the Board to dismiss item numbers 1-3.**

**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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board member was absent: Ms. Bain.**

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

**MOTION PASSED.**

1. MD-19-0648A, WILFORD L. RICHARDSON, M.D., LIC. #48932

**RESOLUTION: Dismiss.**

2. MD-18-0967A, SAMUEL BUTMAN, M.D., LIC. #15736

Attorney James Ledbetter addressed the Board during the Public Statements on behalf of Dr. Butman.

**RESOLUTION: Dismiss,**

3. MD-19-0192A, ALEXANDER M. PERRIAN, M.D., LIC. #23321

**RESOLUTION: Dismiss.**

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

**MOTION:** Dr. Figge moved for the Board to issue an Advisory Letter in item numbers 1-7 and 10-14.

**SECOND:** Dr. Beyer

**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 was absent: Ms. Bain.

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

**MOTION PASSED.**

1. MD-17-0878A, DAVID K. TOM, M.D., LIC. #43118

**RESOLUTION:** Issue an Advisory Letter for inadequate medical records; for improper unbundling of codes 77002 and 77003; and for incomplete disclosure of financial interests to patients. 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.

2. MD-17-0878B, CLIFFORD T. BAKER, M.D., LIC. #42990

**RESOLUTION:** Issue an Advisory Letter for inadequate medical records, for improper unbundling of code 77003, and for incomplete disclosure of financial interests to patients. 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.

3. MD-18-0884A, DANILE L. MONTGOMERY, M.D., LIC. #50465

BK and HK addressed the Board during the Public Statements portion of the meeting.

**RESOLUTION:** Issue an Advisory Letter for failing to perform and document a thorough and accurate physical examination of a post-operative patient presenting with mild distress and an elevated white blood cell count. 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.

4. MD-19-0489A, DOUGLAS J. CAMPBELL, M.D., LIC. #28543

**RESOLUTION:** Issue an Advisory Letter for failing to obtain a urinary drug screen prior to prescribing opioids, and for failing to maintain adequate records. 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.

5. MD-19-0597A, ROSS A. MCARTHUR, M.D., LIC. #31910

**RESOLUTION:** Issue an Advisory Letter for failing to identify the presence of intraperitoneal fluid and pockets of intraperitoneal gas in the sigmoid colon area

on an abdominal CT scan. There is insufficient evidence to support disciplinary action.

6. MD-19-0302A, JOHN W. CORY, M.D., LIC. #36154

**RESOLUTION:** Issue an Advisory Letter for inadequate medical records. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

7. MD-18-0571A, CHARLES M. DAVIS, M.D., LIC. #21788

**RESOLUTION:** Issue an Advisory Letter for failing to identify a retropharyngeal abscess on a neck CT angiogram. There is insufficient evidence to support disciplinary action.

8. MD-19-0483A, STEPHEN Y. HU, M.D., LIC. #28116

Dr. Gillard observed that this case involved a radiologist who failed to report a nodule on radiographic imaging. Dr. Gillard noted that the MC pointed out that the nodule was partially hidden by a rib. Dr. Gillard commented that it appeared to not be an easy finding visualized on the imaging, and that there was no patient harm identified in this case. Dr. Gillard spoke in favor of dismissing the case and stated that going through the Board's investigation process is a learning experience in itself.

**MOTION:** Dr. Gillard 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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board member was absent: Ms. Bain.

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

**MOTION PASSED.**

9. MD-19-0578A, DAVID N. RICKS, M.D., LIC. #48903

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

The Board recalled Dr. Ricks' presentation during Public Statements. Dr. Gillard noted that the patient alleged that there was no back examination performed to address her complaint of back pain, and that the MC found the medical records were inadequate. Dr. Gillard stated that based on his review of the investigative file, it appeared that the physician ordered a CT scan to which the patient refused. Dr. Gillard stated that the case appeared to also involve patient non-compliance. Dr. Gillard spoke in favor of dismissal and stated that the physician appeared to have learned from the incident. Dr. Beyer stated that had been on the fence with whether this matter should be dismissed, and thanked Dr. Gillard for his comments. Dr. Beyer also spoke in support of dismissal.

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

**SECOND:** Dr. Beyer

**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 was absent: Ms. Bain.

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

**MOTION PASSED.**

10. MD-18-0914A, QUNSHENG SONG, M.D., LIC. #36062

**RESOLUTION:** Issue an Advisory Letter for inadequate medical records. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

11. MD-19-0389A, ABDULLAH HANNA-MOUSSA, M.D., LIC. #41644

**RESOLUTION: Issue an Advisory Letter for failure to appropriately adjust the patient's levothyroxine dosage. The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.**

12. MD-19-0039A, AVERY J. KNAPP, M.D., LIC. #50201

Drs. David Ott and Zoran Maric spoke during the Public Statements portion of the Board's meeting.

**RESOLUTION: Issue an Advisory Letter for identifying and reporting inaccurate findings on a spinal imaging report. 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.**

13. MD-19-0039B, JOSEPH J. KAVANAGH, M.D., LIC. #36438

Drs. David Ott and Zoran Maric spoke during the Public Statements portion of the Board's meeting. Dr. Kavanagh also addressed the Board with Attorney Steve Myers during the Public Statements portion of the meeting.

**RESOLUTION: Issue an Advisory Letter for identifying and reporting inaccurate findings on a spinal imaging report. 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.**

14. MD-19-0710A, DAWN R. ELLIOTT, M.D., LIC. #49454

**RESOLUTION: Issue an Advisory Letter for improper management of surgical patients. 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.**

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

1. MD-19-0470A, BO E. MCCLAIN, M.D., LIC. #30909

Dr. Gillard observed that this case involved the improper placement of a spinal stimulator that resulted in a malpractice settlement. Dr. Gillard questioned whether CME was warranted in this case, stating that he agreed with the recommendation to issue an Advisory Letter and that the physician has learned from the experience of the malpractice claim as well as the Board's investigation process. Chairman Farmer noted that the physician has indicated through counsel that they did not dispute the recommendation for CME.

Dr. Krahn spoke in support of SIRC's recommendation for the CME in addition to the issuance of an Advisory Letter, noting that the litigation process does not always educate the physician. She stated that requiring the completion of CME under the circumstances with a devastating outcome as in this case is an appropriate way for the Board to assist in further educating this physician.

**MOTION: Dr. Krahn moved for the Board to issue an Advisory Letter and Non-Disciplinary CME Order for improper placement of a spinal cord stimulator. 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 5 hours of Board staff pre-approved Category I CME in the placement of spinal cord stimulators. The CME hours shall be in addition to the hours required for license renewal.**

**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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board member was absent: Ms. Bain. VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent. MOTION PASSED.**

2. MD-18-0592A, TAMARA DJURISIC, M.D., LIC. #45153

Dr. Bethancourt observed that this case involved a Medicare patient who presented to Dr. Djurisc for an annual wellness visit, and the physician was found to have charged for an extensive PHQ9 visit which includes depression and alcohol use screenings per CMS requirements. Board staff reported that the medical record documentation in this case does not support the Medicare billing in that the physician did not document the time spent with the patient to support the time-based billing code used. Dr. Beyer noted that there was no patient harm in this case, and stated that SIRC's recommendation for CME in this case was appropriate. Ms. Jones commented that while the billing is ultimately the physician's responsibility, the physician's staff would also benefit from obtaining further education in billing and coding.

**MOTION: Dr. Beyer moved for the Board to issue an Advisory Letter and Non-Disciplinary CME Order for failure to provide adequate documentation for billing. There is insufficient evidence to support disciplinary action. Within six months, complete no less than 3 hours of Board staff pre-approved Category I CME in billing/coding. The CME hours shall be in addition to the hours required for license renewal.**

**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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board member was absent: Ms. Bain.**

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

**MOTION PASSED.**

3. MD-18-1085A, ROGER J. HUCEK, M.D., LIC. #19766

Dr. Gillard observed that Dr. Hucek resigned under investigation by the Hospital after the death of an elective cardiothoracic patient, and that he did not comply with the Hospital's order to undergo a PACE evaluation. Dr. Gillard noted conflicting results from three neuropsychological evaluations with identification of possible memory issues, and questioned whether a competency evaluation was warranted in this case.

Board staff reported that after reviewing Dr. Hucek's supplemental response which included information that was not documented in the patient's chart, the MC opined that if the additional information were true, there would be no deviation from the standard of care. Board staff confirmed that Dr. Hucek underwent three neuropsychological evaluations, the third of which did not identify any competency concerns. Dr. Krahn stated that when possible, the Board should utilize its approved evaluators to gain a better sense of the quality of the evaluations and the way they are administered. Board staff clarified that Dr. Hucek obtained the evaluations voluntarily as they were not ordered by the Board. Board staff also explained that Dr. Hucek selected the first evaluator and when he was offered a practice limitation, his counsel raised objections regarding the first evaluation. Dr. Hucek was then evaluated by a provider that has been approved by the Board previously. Board staff stated that Dr. Hucek selected the third evaluator, who did not identify competency concerns.

Ms. Jones expressed concern regarding some of the findings contained in the third evaluator's report and summary. Dr. Krahn questioned whether the case should be returned for further investigation to obtain a second quality of care review by a new MC. She stated that the explanations provided in the physician's supplemental response were not documented within the medical records. Dr. Beyer stated that the Board relies on the medical record documentation to review what took place, and that he was concerned regarding the quality of care in this case. Chairman Farmer questioned whether a

competency evaluation was warranted. Dr. Krahn spoke in support of returning the case for further investigation to obtain a second quality of care review by a new MC, which she stated may lead to the consideration of a competency evaluation.

**MOTION: Dr. Krahn moved for the Board to return the case for further investigation to include obtaining a new quality of care review by a second MC.**

**SECOND: Dr. Gillard**

**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 was absent: Ms. Bain.**

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

**MOTION PASSED.**

4. MD-19-0535A, THOMAS D. SPERA, M.D., LIC. #20580

Dr. Spera and Attorney Susan Trujillo addressed the Board during the Public Statements portion of the meeting,

Dr. Gillard stated that while he agreed with SIRC's recommendation to issue an Advisory Letter to track the occurrence, he did not believe that CME was warranted. He stated that this case involved an unfortunate complication of hemothorax after biopsy, and that the physician appeared to know his anatomy and performs these procedures often. Dr. Beyer stated that he was torn as to whether CME was warranted in this case. He stated that based on his review, there was a difference in opinion between the physician and the MC who found that the complication was predictable and avoidable. Dr. Paul stated that he too struggled with this case in terms of CME, and stated that the testimony provided during the Public Statements was compelling with regard to Dr. Spera's experience in performing these procedures. Dr. Figge agreed with Dr. Gillard's comments and stated that CME was not warranted in this case.

**MOTION: Dr. Gillard moved to issue an Advisory Letter for failure to identify vascular structures prior to performing a mediastinal biopsy. 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. Paul**

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

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

**MOTION PASSED.**

5. MD-19-0447A, STEVE Y. CHEN, M.D., LIC. #43560

Dr. Figge noted that the physician expressed his willingness to complete the CME as recommended by SIRC.

**MOTION: Dr. Gillard moved for the Board to issue an Advisory Letter and Non-Disciplinary CME Order for performing a right lung biopsy via puncture of a large bleb which resulted in a bronchopleural fistula; for performing bilateral lung invasive procedures in the same setting; and for performing a right lung biopsy that was not ordered by the referring pulmonologist. There is insufficient evidence to support disciplinary action. Within six months, complete no less than 5 hours of Board staff pre-approved Category I CME in invasive lung procedures. The CME hours shall be in addition to the hours required for license renewal.**

**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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board member was absent: Ms. Bain.**

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

**MOTION PASSED.**

## **N. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS**

**MOTION:** Ms. Jones moved for the Board to uphold the dismissal in item numbers 1-6 and 8.

**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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board member was absent: Ms. Bain.

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

**MOTION PASSED.**

1. MD-18-0923A, NITEEN S. ANDALKAR, M.D., LIC. #35878

**RESOLUTION:** Uphold the dismissal.

2. MD-19-0504A, KIMBERLY A. MULLIGAN, M.D., LIC. #29584

Complainant SV addressed the Board during the Public Statements portion of the meeting.

**RESOLUTION:** Uphold the dismissal.

3. MD-19-0229A, JED M. BAYASI, M.D., LIC. #33079

**RESOLUTION:** Uphold the dismissal.

4. MD-19-0229B, FORREST D. HOLDEN, M.D., LIC. #9950

**RESOLUTION:** Uphold the dismissal.

5. MD-19-0572A, KRISHNA M. PINNAMANENI, M.D., LIC. #14173

**RESOLUTION:** Uphold the dismissal.

6. MD-19-0430A, MARK D. CAMPBELL, M.D., LIC. #25777

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

**RESOLUTION:** Uphold the dismissal.

7. MD-19-0170A, DENNIS G. CRANDALL, M.D., LIC. #22422

Complainant NA addressed the Board during the Public Statements portion of the meeting.

The Board recalled testimony provided during the Public Statements. Dr. Krahn stated the question in this case is whether the screw was placed appropriately. Dr. Gillard stated that the patient claimed the screw was in the wrong position causing injury, and resulted in removal by another physician. Chairman Farmer observed that the MC stated the screw had descended by two millimeters and that there was relief from subsequent surgery. The MC discussed in his report that he did not believe the screw touched the nerve, but was the possible source of irritation. The MC also stated that the placement of the screw was not unusual and concluded that Dr. Crandall did not deviate from the standard of care with regard to the procedure or follow up care.

Board staff reported that it is typically considered acceptable for the screw to protrude two millimeters in this location, and that there was no damage to neurological structures. The licensee pointed out in his correspondences to the Board that the patient did not mention right leg pain until two and one half weeks after the procedure. Board staff stated that if the screw was irritating the nerve, it would not take weeks for the patient to be aware of a new onset of pain. Chairman Farmer stated that he did not find a deviation from the standard of care in this case. Dr. Beyer questioned whether Dr. Crandall's follow



up care was adequate. Board staff reported that the patient was seen by Dr. Crandall on at least eleven different occasions within a fairly short period of time.

**MOTION:** Dr. Beyer moved for the Board to uphold the dismissal.

**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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board member was absent: Ms. Bain.

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

**MOTION PASSED.**

8. MD-19-0501A, STEPHEN L. RITLAND, M.D., LIC. #12768

**RESOLUTION:** Uphold the dismissal.

## **O. PROPOSED CONSENT AGREEMENTS (Disciplinary)**

**MOTION:** Dr. Krahn moved for the Board to accept the proposed Consent Agreement in item numbers 1, 2, and 3.

**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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board member was absent: Ms. Bain.

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

**MOTION PASSED.**

1. MD-19-0943A, THOMAS J. PETERS, M.D., LIC. #9582

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

2. MD-18-1035A, DAVID E. NIELSEN, M.D., LIC. #54814

**RESOLUTION:** Accept the proposed Consent Agreement for Letter of Reprimand and Five Year PHP Probation with Practice Restriction. Dr. Nielsen's practice is restricted in that he may administer and prescribe controlled substances as part of the management of surgical patients in the operating and in preoperative areas and recovery areas at a hospital or surgical center. Dr. Nielsen shall not otherwise prescribe controlled substances and shall not prescribe to patients for use outside of the hospital setting. Dr. Nielsen shall enter treatment with a PHP Contractor approved addiction psychiatrist or addiction medicine specialist as recommended by the Facility in its post-treatment discharge summary. After one year, Dr. Nielsen may petition the Board to request termination of the requirement to remain in treatment with an addiction psychiatrist or addiction medicine specialist. Dr. Nielsen's Probation shall be retroactive to December 31, 2018. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board.

3. MD-19-0751A, MARY B. R. CLIFTON, M.D., LIC. #52312

**RESOLUTION:** Accept the proposed Consent Agreement for Letter of Reprimand.

4. MD-18-0966A, STEVEN M. RAYLE, M.D., LIC. #17733

Dr. Gillard stated that he knows Dr. Rayle professionally and that it would not affect his ability to adjudicate the case. Dr. Krahn stated that she was not opposed to accepting the proposed Consent Agreement, but wanted to address the physician's purchase and use of non-FDA approved drugs. Dr. Krahn questioned how the Board could ensure that the PHP is monitoring for the use of unconventional medications, including the one used in this case that was purchased offshore. Dr. Beyer stated that he found the language within the Consent Agreement relating to medication restrictions was very comprehensive. AAG Smith stated that the applicable language contained within the Consent Agreement requires the physician to obtain medical treatment from a PHP-approved primary care provider only. Board staff also pointed out that pursuant to the terms of the Consent Agreement, any and all medications are to be approved by the PHP.

**MOTION:** Dr. Krahn moved for the Board to accept the proposed Consent Agreement for Decree of Censure and Five Year PHP Probation. Dr. Rayle's PHP participation shall be retroactive to January 24, 2019. Dr. Rayle shall continue treatment with a PHP Contractor-approved psychotherapist as recommended by the evaluating facility. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board.

**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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board member was absent: Ms. Bain.

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

**MOTION PASSED.**

## **P. PROPOSED CONSENT AGREEMENTS (Non-Disciplinary)**

1. MD-14-1194A, MARK A. ABRAMOVICH, M.D., LIC. #35225

**MOTION:** Dr. Gillard moved for the Board to accept the proposed non-disciplinary Consent Agreement for Surrender of Licensure.

**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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board member was absent: Ms. Bain.

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

**MOTION PASSED.**

## **Q. LICENSE APPLICATIONS**

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

**MOTION:** Dr. Figge moved for the Board to approve the application in item numbers 1, 2, and 5-10.

**SECOND:** Ms. Dorrell

**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-19-0714A, SUMIR M. BRAHMBHATT, M.D., LIC. #N/A

**RESOLUTION:** Approve the application.

2. MD-19-0928A, JASON G. HIRSCH, M.D., LIC. #N/A

**RESOLUTION:** Approve the application.

3. MD-19-0812A, KWABENA A. BOATENG, M.D., LIC. #N/A

Dr. Beyer expressed concern regarding the physician's honesty and lack of disclosure of prior discipline including suspension. Chairman Farmer stated that he shared Dr. Beyer's concerns and stated that the Board had the ability to invite the physician to appear for a Licensing Interview to further elaborate on the issues identified. The Board observed that Dr. Boateng disclosed a malpractice claim on the license application, and did not disclose two disciplinary sanctions issued by the Illinois Board. Dr. Krahn noted that the physician failed to disclose that he continued to practice after he had allowed his license to lapse. Dr. Figge spoke in support of inviting the physician for a Licensing Interview.

**MOTION:** Dr. Krahn moved for the Board to proceed to a Licensing Interview.

**SECOND:** Dr. Beyer

**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 was absent: Ms. Bain.**

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

**MOTION PASSED.**

**4. MD-19-0151A, AARON T. SAUNDERS, M.D., LIC. #N/A**

Ms. Jones stated that she encountered several red flags when reviewing this file. She stated that the physician was dismissed from his training program at the University of Texas. Ms. Jones observed that Dr. Saunders did not disclose to the University of Arizona that he was dismissed from the program in Texas, was placed on probation and admitted to a recovery center where he completed phase 1 but did not participate in phase 2. Ms. Jones further expressed concerns regarding Dr. Saunders' substance use and treatment history as disclosed in the application process.

Chairman Farmer noted that the file contained confidential information that the Board should discuss in Executive Session.

**MOTION: Ms. Jones moved for the Board to enter into Executive Session to discuss confidential information and to obtain legal advice pursuant to A.R.S. §§ 38-431.03(A)(2) and (3).**

**SECOND: Dr. Beyer**

**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 was absent: Ms. Bain.**

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

**MOTION PASSED.**

The Board entered into Executive Session at 2:35 p.m.

The Board returned to Open Session at 3:02 p.m.

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

Dr. Gillard stated that there are issues in this case that require further review, and spoke in support of returning the case.

**MOTION: Dr. Gillard moved for the case to return for further investigation for Board staff to interview the physician.**

**SECOND: Dr. Bethancourt**

**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, Dr. Krahn, and Dr. Paul. The following Board member voted against the motion: Ms. Jones. The following Board member was absent: Ms. Bain.**

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

**MOTION PASSED.**

**5. MD-19-0868A, RYAN T. GERACIMOS, M.D., LIC. #N/A**

**RESOLUTION: Approve the application.**

**6. MD-19-1132A, STUART A. SOUDERS, M.D., LIC. #N/A**

**RESOLUTION: Approve the application.**

**7. MD-20-0056A, MARCY A. MCINTOSH, M.D., LIC. #N/A**

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

**RESOLUTION: Approve the application.**

**8. MD-19-1183A, ROBERT J. MATHES, M.D., LIC. #N/A**

**RESOLUTION: Approve the application.**

9. MD-19-1204A, Lyla J. Blake-Gumbs, M.D., LIC. #N/A

**RESOLUTION: Approve the application.**

10. MD-19-0875A, Bruce H. Rockwell, M.D., LIC. #N/A

**RESOLUTION: Approve the application.**

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

1. MD-18-0749A, Leticia Calderon-Moreno, M.D., LIC. #N/A

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

Board staff reported that this matter was returned to the Board to consider the results of the PACE evaluation. Dr. Krahn stated that based on her review of the file, she was concerned regarding whether this physician had sufficient knowledge, experience, and qualifications to practice medicine. She spoke in support of offering the physician the opportunity to withdraw the application in lieu of formal license denial.

**MOTION: Dr. Krahn moved for the Board to deny the license based on A.R.S. § 32-1422(A)(3). The physician shall be allowed to withdraw the application within thirty days.**

**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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board member was absent: Ms. Bain.**

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

**MOTION PASSED.**

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

**MOTION: Dr. Gillard moved for the Board to grant the license renewal and issue an Advisory Letter in item numbers 1 and 2.**

**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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board member was absent: Ms. Bain.**

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

**MOTION PASSED.**

1. MD-18-0462A, Karen B. Barcklay-Dodson, M.D., LIC. #29446

**RESOLUTION: moved for the Board to grant the license renewal and issue an Advisory Letter for failing to report a DUI within ten working days as required by law. 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-19-1031A, Joanne R. C. Richardson-Tollerton, M.D., LIC. #55167

**RESOLUTION: Grant the license renewal and issue an Advisory Letter for violating DEA regulations requiring separate registration for each principal place of business where controlled substances are prescribed by the practitioner. There is insufficient evidence to support disciplinary action.**

**iv. CONSIDERATION AND POSSIBLE ACTION TO APPROVE OR DENY LICENSE APPLICATION WITH PROPOSED CONSENT AGREEMENT (Disciplinary)**

**1. MD-19-0574A, SCOTT G. CONKLIN, M.D., LIC. #N/A**

**MOTION:** Dr. Paul moved for the Board to accept the proposed Consent Agreement for Probationary Licensure. Dr. Conklin's practice shall be restricted to emergency medicine and urgent care until he provides proof of completion of CPEP's Basics of Chronic Pain Management course. The physician may petition the Board to request that the Probation be terminated, and full licensure granted after completion of the CME.

**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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board member was absent: Ms. Bain.

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

**MOTION PASSED.**

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

**1. ALLISON M. VALENTINE, M.D., LIC. #N/A**

**MOTION:** Dr. Gillard moved for the Board to grant the request for waiver of documentation requirement and grant the license.

**SECOND:** Dr. Bethancourt

**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 was absent: Ms. Bain.

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

**MOTION PASSED.**

**vi. 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. KAREN D. JOHNSON, M.D., LIC. #N/A**

Dr. Gillard observed that the applicant has been in continuous practice since 1979, holds medical licensure in two other states with no reports of discipline, and that the Executive Director recommended granting the license by endorsement.

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

**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, Dr. Gillard, Ms. Jones, Dr. Krahn, and Dr. Paul. The following Board member was absent: Ms. Bain.

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

**MOTION PASSED.**

**OTHER BUSINESS**

**R. REQUEST FOR MODIFICATION OF BOARD ORDER**

**1. MD-18-0835A, MD-18-0953A, DAWN R. ELLIOT, M.D., LIC. #49454**

Board staff presented Dr. Elliot's request for termination of the requirement that she utilize a proctor. Board staff noted that the proctor stated that she had not identified any concerns regarding intra-operative decision making and technique, but stated that she

could not opine on whether Dr. Elliot required proctoring for foregut surgeries. Chairman Farmer observed the proctor's statements regarding the foregut procedures.

Dr. Beyer noted that the Board does not typically become involved with the issue of credentialing for a specific surgical procedure, and stated that the Board's concern regarding whether this physician was a competent surgeon has been answered by the proctor. Dr. Gillard noted that the Board's Order provides that the physician may be removed from the proctor requirement if the proctor finds that she is safe to practice without additional monitoring.

Dr. Gillard noted that Dr. Elliot did pass PACE, and that the proctor has signed off on the ten cases that were monitored. Dr. Paul stated it appeared that Dr. Elliot has satisfied the Board's Order. Dr. Figge questioned what the Board's options were in light of the proctor's opinion regarding further proctoring. Ms. Jones pointed out that the Board considered another case involving Dr. Elliot earlier in the day and voted to issue an Advisory Letter. She noted that the case involved the type of procedure the proctor declined to monitor and that the Board did not express concerns regarding proctoring on that case.

Dr. Beyer stated that the proctor has determined that based on the ten cases proctored, Dr. Elliot has good surgical technique, is okay in the operating room and takes care of patients. He spoke in support of granting the request to terminate the requirement for proctoring.

**MOTION: Dr. Beyer moved for the Board to terminate the physician's request to terminate the requirement for proctoring of surgical cases.**

**SECOND: Dr. Gillard**

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

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

**MOTION PASSED.**

2. MD-16-1463A, BENJAMIN H. VENGGER, M.D., LIC. #20605

Attorney Darcy Downs-Volbricht addressed the Board on Dr. Venger's behalf during the Public Statements portion of the meeting.

Board staff summarized that Dr. Venger completed the CPEP medical recordkeeping course on December 8<sup>th</sup>, and that he has requested the Board modify his Order to remove the requirement to enroll in PIP due to the associated costs and length of time that the matter has been ongoing. Chairman Farmer stated that the Board was aware of the costs involved when the Order was issued, and stated that he found the physician's comments odd in relation to his concerns that his reviews would be adversely affected by going to an electronic medical records system. Dr. Beyer spoke in favor of denying the physician's request, and stated that in light of the comments made regarding the quality of records while transitioning from one EMR system to another warrants an ongoing review of the physician's recordkeeping.

**MOTION: Dr. Beyer moved for the Board to deny the physician's request to modify his Board Order.**

**SECOND: Dr. Krahn**

Board staff clarified that SIRC recommended the follow-up program to ensure that the medical recordkeeping education is received and applied to the physician's current practice despite the fact that the physician completed CME on recordkeeping in 2015 with PACE, as poor records continued to be a concern. Dr. Figge stated that the issue here is to ensure the physician is documenting appropriately. He questioned possibly modifying the way in which the chart reviews are to be done so as to expedite the process. Board staff reported that even if staff were to conduct the chart reviews as an

alternative to CPEP, there is no guarantee that the chart reviews could be done any faster than the time it would take CPEP to complete their process.

**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 was absent: Ms. Bain.**  
**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.**  
**MOTION PASSED.**

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

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

## **T. ADJOURNMENT**

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

**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.**

The Board's meeting adjourned at 4:19 p.m. on February 6, 2020.

**Friday, February 7, 2020**

## **GENERAL BUSINESS**

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

Chairman Farmer called the Board's meeting to order at 8:03 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: 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 participated telephonically: Ms. Bain.

Present among Board staff include: Patricia McSorley, Executive Director; Kristina Fredericksen, Deputy Director; Carrie Smith, Assistant Attorney General (AAG); Anne Froedge, AAG; Mary D. Williams, 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. AAG Elizabeth Campbell was present to provide independent legal advice on matters as referenced 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. LEGAL ADVISOR'S REPORT**

- 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: 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 entered into Executive Session at 12:05 p.m.

The Board returned to Open Session at 12:22 p.m.

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

## **E. DISCUSSION AND POSSIBLE ACTION REGARDING ELECTION OF OFFICERS**

Dr. Krahn nominated Dr. Farmer to continue as Board Chair. Dr. Farmer accepted the nomination.

**MOTION: Dr. Krahn moved to nominate Dr. Farmer to continue as Board Chair.**

**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.**

Dr. Figge nominated Dr. Gillard to continue as Vice-Chair and Dr. Paul to continue as Secretary. Dr. Gillard and Dr. Paul accepted the nominations.

**MOTION: Dr. Figge moved to nominate Dr. Gillard to continue as Board Vice-Chair, and for Dr. Paul to continue as Board Secretary.**

**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.**

## **F. DISCUSSION AND POSSIBLE ACTION REGARDING APPOINTMENT OF COMMITTEE MEMBERS**

Chairman Farmer stated that the Board is operating in an era where the context evolves and there is relatively new legislation on which the Board will receive further education during its Special Training Meeting scheduled for later in the day. He pointed out that the Board has historically utilized Committees that consisted of three Board members, resulting in a quorum existing when two of the three members are present. Chairman Farmer stated that it is prudent for the Board to have strict limitations on offline discussions, and for the Committees to consist of a minimum of five members. He stated that one possible solution could be combining the Administrative and Joint Legislative Review Committees. Ms. Bain spoke in support of combining the Committees as she believed the two complement each other.

**MOTION: Dr. Krahn moved for the Board to combine the two Committees to establish the Administrative and Joint Legislative Review Committee.**

**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.**



**MOTION: Dr. Gillard moved for the Board to appoint the following Board members to the Administrative and Joint Legislative Review Committee: Ms. Bain, Dr. Farmer, Ms. Jones, Dr. Krahn, and Dr. Paul.**

**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.**

The Board discussed the make-up of the PHP Committee, which included members Dr. Krahn, Dr. Farmer, and Ms. Bain, as well as ad hoc member PA Miles Whitfield from the Arizona Regulatory Board of Physician Assistants. Board members noted that having two additional members join the PHP Committee would broaden the representation and possibly ease the process of scheduling a quorum of members. Dr. Beyer and Ms. Dorrell volunteered to serve on the PHP Committee.

**MOTION: Ms. Jones moved for the Board to appoint the following members to the PHP Committee: Ms. Bain, Dr. Beyer, Ms. Dorrell, Dr. Farmer, and Dr. Krahn.**

**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.**

## **LEGAL MATTERS**

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

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

Attorney Vinme Lichvar was present on behalf of Dr. Karami-Sichani. Mr. Lichvar stated that Dr. Karami-Sichani is capable and willing to be rehabilitated, and is willing to take the recommended CME with follow up PIP enrollment. He stated that the physician has made significant changes in his practice to prevent any further concerns. He added that Dr. Karami-Sichani understands the severity of his actions and has taken corrective action to improve his handwriting and communication with patients. Mr. Lichvar asked that the Board consider granting their motion for rehearing and issue an Advisory Letter as they believed the Letter of Reprimand was too severe a punishment and unjust in this case.

Dr. Beyer stated that he was not convinced that the Board's Order was in any way excessive given the facts of the case presented to the Board at the time. Dr. Beyer pointed out that Dr. Karami-Sichani's prior Board history included a prior Advisory Letter for recordkeeping concerns. Dr. Krahn stated that based on her review of the patient's complaint, she appeared very distressed and described this as a scary period of uncertainty with regard to medications. Dr. Krahn agreed with Dr. Beyer's comments and stated that rehearing was not warranted in this case.

Chairman Farmer stated that the physician appeared to be genuinely remorseful and recognized that he has taken remedial action to ensure improvement. Dr. Figge agreed with comments made by other members, and noted that Dr. Karami-Sichani complete CME a few years prior to the current incident, and stated that the education did not appear to have an effect on the physician's practice.

**MOTION: Dr. Figge moved for the Board to deny the motion for rehearing/review.**

**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.**

## **H. DISCUSSION AND POSSIBLE ACTION REGARDING RESPONDENT'S SETTLEMENT PROPOSAL**

### **1. MD-17-0374A, KAPIL H. THAKKAR, M.D., LIC. #51425**

Dr. Thakkar was present with Attorney Mike Goldberg. AAG Froedge was present on behalf of the State. AAG Elizabeth Campbell was present as the Board's Independent Legal Advisor.

Mr. Goldberg stated that they did not believe it was necessary for this case to proceed to Formal Hearing. He stated that Dr. Thakkar admits that he was impaired in Louisiana, and that he was not honest with this Board and withheld information. Mr. Goldberg stated that Dr. Thakkar has been compliant with the terms and conditions of his Louisiana probation and asked that the Board consider taking reciprocal action against Dr. Thakkar's Arizona medical license requiring him to remain in compliance with the Louisiana probation. Dr. Thakkar addressed the Board and stated that he apologized for his inappropriate actions. He reiterated that he has complied with his Louisiana probation, and that he was seeking reinstatement of his Arizona license. He reported that he has been working at a clinic seeing outpatients, and that he has also been working at a rehabilitation facility with no reported issues.

AAG Froedge clarified that Dr. Thakkar entered into an Interim Consent Agreement for Practice Restriction and that this is not a straightforward PHP case. She stated that while the Board at times has been in agreement with mirroring a sister state's agreement, and the issues in this case have more to do with the over-arching issues of conduct and the physician obtaining an Arizona medical license by deceit. AAG Froedge stated that this Board was unable to conduct a full licensing investigation because information was withheld, and that Dr. Thakkar may not have been granted licensure had the information been available to the Board at the time. AAG Froedge reported that the Board has not received any information regarding Dr. Thakkar's compliance in Louisiana since March of 2019. AAG Froedge stated that it is the State's position that the matter should proceed to Formal Hearing to address the issues in this case, including how Dr. Thakkar's license was obtained in Arizona.

Mr. Goldberg readdressed the Board and stated that they could provide updated compliance information, and that they do not need a hearing to determine that Dr. Thakkar obtained the license by deceit as he has admitted to the conduct. Mr. Goldberg stated that Dr. Thakkar has been evaluated, made a plan, and has already been punished. He asked that the Board allow his license to be placed on probation upon satisfactory proof that he has been compliant in Louisiana.

Dr. Figge stated he found that the State made a sound argument regarding the physician's credibility and that the Board does not have proof of compliance despite Dr. Thakkar's word that he has been compliant. Dr. Figge spoke in support of allowing the matter to proceed to the Office of Administrative Hearings for a Formal Hearing. Dr. Krahn recognized that this was a complicated case involving many issues and stated that the matter should continue to Formal Hearing.

**MOTION: Dr. Figge moved for the Board to deny the request for settlement proposal and allow the matter to proceed to Formal Hearing.**

**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.**

## **I. FORMAL INTERVIEWS**

### **1. MD-19-0321A, MANISH J. PATEL, M.D., LIC. #29685**

Board staff reported that while the matter was pending Formal Interview, Dr. Patel elected to enter into the Consent Agreement offered to him. Therefore, the Board tabled this case to its March 2020 teleconference.

2. MD-19-0107A, CHARLES MATLIN, M.D., LIC. #13975

Dr. Beyer stated that he knew Dr. Matlin professionally and that it would not affect his ability to adjudicate the case. Dr. Matlin was present with Attorney Jeffrey McLerran. Board staff summarized that Dr. Matlin deviated from the standard of care in this case by failing to adequately treat the high output from an ileostomy. The MC found that Dr. Matlin's documentation was at times inaccurate, lacked adequate reasoning for the delay between the two operations, and lacked a clinical rationale for the minimal treatment of the high output ostomy. Board staff reported that Dr. Matlin's prior Board history included two previously Advisory Letters involving medical recordkeeping concerns.

Dr. Matlin stated that he has never been disciplined by this Board, and that he has addressed his recordkeeping practices. He assured the Board that efforts were made in this case to control the excessive ileostomy output. Dr. Matlin stated that he exhibited cautious judgment in this case and attempted conservative non-operative management of this very fragile and complicated patient. He admitted that his notes were brief, but stated that they are detailed when necessary and have been interpreted without confusion by other providers on this case. Dr. Matlin stated that he did not believe that the patient's course was in any way exacerbated by his care, and that she was given her best chance at a positive outcome based on his conservative approach. Mr. McLerran stated that this was a complicated case that Dr. Matlin managed very well and that the MC did not question the physician's surgical technique in this case. Mr. McLerran stated that they did not believe this matter rises to the level of disciplinary action and that issuing a non-disciplinary order would achieve the Board's aim to improve the documentation.

Dr. Paul questioned the physician regarding his involvement in the patient's care over the course of the five months that she was hospitalized on three separate occasions. Dr. Matlin explained that the patient was in and out of extended care facilities during that same time. Dr. Paul recognized that this was a complex patient with multiple diagnoses and obesity that may have played a role in the difficulties encountered with surgery. Dr. Matlin stated that ileostomy in a patient with this body habitus is very difficult to manage. He reported that he saw the patient intermittently over that period of time mostly for wound care and management, and eventual ileostomy takedown. He stated that he sent his notes to the patient's primary provider and that she was also being seen and monitored by nephrology at the time. Dr. Paul expressed concern regarding Dr. Matlin's recordkeeping and stated that it appeared the physical exam notes were identical for each patient encounter. Dr. Matlin explained that his findings are described within his narrative where he described in detail the ileostomy and abdominal wound.

In response to Dr. Beyer's questioning, Dr. Matlin stated that one thing he could have done differently was see the patient more often, but that he believed he did follow this patient closely and that he documented well. Dr. Matlin stated that he did not regret giving this patient the benefit of the doubt and tried not to intervene when they thought surgery could be avoided. Ms. Jones noted that Dr. Matlin stated in his written response that the patient was poorly compliant and asked the physician to expand further on this point as it was not documented in the patient's chart. Dr. Matlin stated that the patient did not comply with the dietary recommendations. The Board noted that the patient had a weight loss of 125 pounds from the time of her initial procedure to the time of the ileostomy takedown. Chairman Farmer commented that he did not find a coherent nutrition plan in the medical records. Dr. Matlin stated that the patient was able to maintain her nutrition on her own, and that when the patient was hospitalized for dehydration, he did obtain a dietary nutrition assessment on her that is located in the hospital record. In closing, Mr. McLerran stated that Dr. Matlin's care was appropriate and within the standard of care, and that disciplinary action was not warranted.

Dr. Paul stated that he found Dr. Matlin engaged in unprofessional conduct in relation to a records violation.

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

**SECOND: Dr. Gillard**

Dr. Beyer stated that while the physician's recordkeeping could be improved, he was able to understand what the physician was thinking based on his review of the file. Dr. Beyer stated that he recognized that this was a very complicated patient who had a very serious medical condition and was clearly high risk for postoperative complications. Chairman Farmer stated that he was not comfortable with the physician's response to the patient's pulse of 134 with accompanying symptoms, and questioned whether there was a violation of A.R.S. § 32-1401(27)(r) in addition to the (e) violated cited in the motion. Dr. Paul stated that he did not include an (r) violation in his motion based on the physician's testimony and stated that he felt the physician met the standard of care for his involvement in this case.

Dr. Figge recognized that this was a very complicated case and stated that the records should have been more detailed. He stated that a lot of information was brought up during the interview that could not be discerned from the physician's notes. Dr. Krahn stated that she struggled with whether to sustain an (r) violation. She stated it appeared that the patient lost a tremendous amount of weight in a short period of time. Dr. Krahn agreed with Dr. Figge's comments regarding the medical recordkeeping issues. Dr. Gillard spoke against sustaining an (r) violation and stated that he was in agreement that there were issues with the recordkeeping. Dr. Bethancourt spoke in support of sustaining the (r) violation and questioned why the patient remained on Lasix with findings of dehydration.

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

**VOTE: 5-yay, 6-nay, 0-abstain, 0-recuse, 0-absent.**

**MOTION FAILED.**

**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: Dr. Connolly**

Dr. Figge stated that the chances of this patient not experiencing complications were slim to none. He stated that knowing this case was complicated from the start should have prompted more detailed documentation on the part of the physician. Dr. Beyer spoke against the motion and stated that he was not convinced that there was a quality of care violation in this case. Dr. Paul stated that he concurred with Dr. Beyer's comments and found that this physician did a fair job with managing the high output ostomy. Dr. Krahn noted that the patient was being seen by multiple providers and stated that there did not appear to be coordination of care in this case.

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

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

**MOTION PASSED.**

Dr. Paul stated that the records violation is a significant issue in this case, and that given the history of Advisory Letters for similar concerns, he agreed that CME was warranted and that he was torn as to whether this matter rises to the level of disciplinary action. Dr. Gillard stated he did not find that this matter rises to the level of discipline and that he agreed with SIRC's recommendation for CME.

**MOTION:** Dr. Gillard moved for the Board to issue an Advisory Letter and Order for Non-Disciplinary CME for failing to adequately treat the high output from the ileostomy and 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. Within six months, complete no less than 5 hours of Board staff pre-approved Category I CME in postoperative care and management following gastrointestinal surgery; and, 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 in CPEP's Personalized Implementation Program (PIP) with successful completion. The CME hours shall be in addition to the hours required for license renewal.

**SECOND:** Dr. Paul

Dr. Beyer questioned whether 5 CME hours in ileostomies addressed the heart of the issues identified by the Board in this case. Dr. Figge spoke in support of the CME requirement to ensure patient safety.

**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.**

## **J. FORMAL INTERVIEWS**

1. THIS CASE WAS MOVED TO FEBRUARY 6, 2020 ITEM O. #4
2. MD-17-0873A, DAVID K. TOM, M.D., LIC. #43118

Complainant TH addressed the Board during the Public Statements portion of the meeting.

Dr. Tom was present with Attorney Fred Cummings. Board staff summarized that the MC found Dr. Tom deviated from the standard of care in selecting invasive treatment for TH and use of heavy sedation in the performance of cervical epidural steroid injection. Dr. Tom stated that he has safely performed thousands of these procedures in the past for complex patients with complex anatomies. He stated that contrary to the MC's findings, he felt that there was clear indication for the cervical radiculopathy and epidural injection. Dr. Gillard questioned how Dr. Tom determines the depth of the needle during the procedure. Dr. Tom explained that contralateral imaging is used to advance the needle. He stated that at no time did he feel as though he advanced the needle past the dura and near the spinal cord area. Dr. Krahn questioned Dr. Tom regarding the lack of imaging from the procedure and asked that he expand further on his policy regarding retaining images captured during procedures. Dr. Tom stated that he too had an issue with the lack of x-rays. He explained that the x-ray technician working with him that day was new to him and that he instructed him to save the critical images for retention. Dr. Tom stated that after the patient left in the ambulance, he asked for the images to go over what took place and found that the technician had saved one single blurred image.

Dr. Beyer questioned the physician regarding the utilization of Propofol for sedation in this case. Dr. Beyer also asked who made the decision as to how much anesthesia the patient would require for the procedure. Dr. Tom stated that the decision is made in consultation with the CRNA. Dr. Beyer noted that the consultation was not documented in the patient's chart. Dr. Beyer also observed that the complication encountered with this patient was not described in the operative note which stated that upon leaving, the patient was returned to baseline function status. Dr. Tom informed the Board that as a result of this incident, the surgery center has assessed the situation to determine what could be improved. Ms. Jones questioned how much time the physician spent going over the risks and benefits of the procedure with the patient. Dr. Tom stated that it is his standard practice to meet with patients in the preoperative area for fifteen minutes to go over the risks and benefits and have the patient sign the consent forms. He stated that

the sedation aspect of it was discussed at length with the patient as well as with the CRNA.

Chairman Farmer stated that he would expect to see documentation in the chart justifying the medication used for sedation in this case in light of the Anesthesia Patient Safety Foundation's opinion regarding the use of Propofol. Chairman Farmer expressed concern regarding the use of Propofol to sedate the patient in this case, and commented that this prevented the patient from having the ability to signal the physician that he had advanced the needle past the threshold. Dr. Tom stated that he made a difficult clinical decision that he felt was justified in terms of trying to help this patient who failed conservative care with no clear surgical solution. In closing, Mr. Cummings stated that the physician had adequate indication to proceed and that he has taken active and proactive steps to address concerns regarding his recordkeeping to ensure the public is better protected.

Dr. Gillard stated that he found the physician engaged in unprofessional conduct as there were explanations provided to the Board that were not documented in the patient's medical record. Dr. Gillard also recognized that this case involved patient harm and spoke in support of sustaining the statutory violations proposed by SIRC.

**MOTION: Dr. Gillard 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. 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.**

Dr. Gillard stated that while he believed the physician had the best of intentions for this patient, the unfortunate complication resulted in a very significant injury to the patient. Dr. Krahn commented that there appeared to be a degree of looseness in this case that causes her considerable pause. She stated that it was not made clear to the technician what was expected of him prior to the procedure, and the nature of the conversation between Dr. Tom and the CRNA was not clearly documented in the chart. Dr. Beyer stated that he too was troubled by the issues raised in this case. He stated that he has not heard the physician take ownership for the complication that occurred in this case, and stated it is clear that the complication occurred as a result of the needed advancing further than it should have been during the procedure. Chairman Farmer agreed that there was a lack of ownership on the part of the physician.

**MOTION: Dr. Gillard moved for the Board to issue an Advisory Letter and Order for Non-Disciplinary CME for performing a CESI procedure without adequate medical indication, utilizing inappropriate anesthesia with high dose Propofol for a CESI procedure, and 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. 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; and, complete no less than 5 hours of Category I CME in cervical spine pain procedures. The CME hours shall be in addition to the hours required for license renewal.**

**SECOND: Dr. Figge**

Dr. Krahn stated that this was an egregious example of a medical record problem. She observed that the operative note did not accurately describe the complication, and stated that CME in recordkeeping is warranted in this case. Dr. Beyer stated that this case was egregious with a number of very serious problems with the procedure and outcome, and that he believed the matter rises to the level of discipline. Dr. Gillard stated that he stands by his motion given the mitigating factors including the lack of prior Board discipline. Chairman Farmer reiterated his concerns regarding the lack of ownership of what

occurred, and stated that this case involved egregious documentation errors. He spoke against the motion and stated that this matter rises to the level of discipline and that CME was warranted. The Board noted that the physician was issued an Advisory Letter in an unrelated case considered by the Board on the first day of its meeting that also involved recordkeeping concerns.

Dr. Krahn also spoke in support of issuing discipline in this case and stated that there appeared to be a lot of issues that happened to line up for this patient and resulted in a very bad outcome. Dr. Figge spoke in support of the motion and stated that CME was warranted to address the poor recordkeeping. Dr. Paul also spoke for the motion and stated that a disciplinary action would not protect the public any more than the proposed action.

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

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

**MOTION FAILED.**

**MOTION:** Dr. Krahn moved for draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and Probation. Within six months, complete no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding medical recordkeeping; and, complete no less than 5 hours of Category I CME in cervical spine pain procedures. The CME hours shall be in addition to the hours required for license renewal. The Probation shall terminate upon successful completion of the CME coursework.

**SECOND:** Dr. Beyer

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

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

**MOTION PASSED.**

## **CONSENT AGENDA**

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

**MOTION:** Ms. Jones moved for the Board to accept the draft Findings of Fact, Conclusions of Law and Order for item numbers 1-4.

**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 abstained: Dr. Gillard.

**VOTE:** 10-yay, 0-nay, 1-abstain, 0-recuse (1 recusal noted on item number 2), 0-absent.

**MOTION PASSED.**

#### **1. MD-18-0887A, KATHERINE A. ALTIERI, M.D., LIC. #50790**

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

**RESOLUTION:** Approve the 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.

2. MD-19-0242A, METJA D. STANONIK, M.D., LIC. #47675

Dr. Figge was recused from this case.

**RESOLUTION:** Approve the 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.

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

**RESOLUTION:** Approve the draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand.

4. MD-19-0044A, SEAN P. ELLIOTT, M.D., LIC. #27986

**RESOLUTION:** Approve the 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.

## **OTHER BUSINESS**

### **L. REQUEST FOR TERMINATION OF BOARD ORDER**

1. MD-14-1276A, MICHAEL E. JAMES, M.D., LIC. #24537

Dr. Beyer spoke in support of granting the request to terminate the Board Order in light of the physician's compliance with its terms and conditions.

**MOTION:** Dr. Beyer moved for the Board to grant the request for termination of his April 2, 2015 Board Order.

**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.**

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

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

### **N. ADJOURNMENT**

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

**SECOND:** Dr. Paul

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

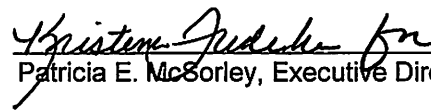
**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

**MOTION PASSED.**

The Board's meeting adjourned at 12:23 p.m. on February 7, 2020.





  
Patricia E. McSorley, Executive Director