



## ARIZONA MEDICAL BOARD

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

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### FINAL MINUTES FOR SUMMARY ACTION TELECONFERENCE MEETING

Held on Tuesday, April 28, 2020

1740 W. Adams St., Board Room 4100 • 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.  
Laura Dorrell, M.S.N., R.N.  
Gary R. Figge, M.D.  
Pamela E. Jones  
Lois E. Krahn, M.D.

## GENERAL BUSINESS

### A. CALL TO ORDER

Chairman Farmer called the meeting to order at 2:01 p.m.

### B. ROLL CALL

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

The following Board members were absent: Dr. Beyer.

### ALSO PRESENT

The following Board staff were present: Kristina Fredericksen, Deputy Director; Michelle Robles, Board Operations Manager; and, Sean Charles, Information Technology. The following Board staff participated telephonically: Patricia McSorley, Executive Director; Carrie Smith, Assistant Attorney General (AAG); Anne Froedge, AAG; William Wolf, M.D., Chief Medical Consultant; Kathleen Coffey, Medical Consultant; Raquel Rivera, Investigations Manager; and Christine Press, Investigator.

### C. CALL TO THE PUBLIC

No individuals addressed the Board during the Public Statements portion of the meeting.

## LEGAL MATTERS

### D. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING SUMMARY ACTION

1. MD-19-0463A, IVOR BENJAMIN, M.D., LIC. #40592

Dr. Benjamin participated telephonically with counsel Neil Alden.

Board staff summarized that on May 14th, 2019, the Board initiated an investigation after receiving notification from a hospital indicating that on May 2nd, 2019, Dr. Benjamin voluntarily agreed to refrain from performing robotic operative procedures. The hospital reinstated Dr. Benjamin's privileges on May 9th, 2019 after a peer review was conducted resulting in Dr. Benjamin submitting a plan of correction. The Board's Medical Consultant (MC) performed four chart reviews of patients RA, LS, PS, and FC indicating that Dr. Benjamin deviated from the standard of care in all four cases. Board staff reviewed the MC's findings regarding the four patient charts. Board staff further reviewed SIRC's recommendation for a competency evaluation and Interim Consent Agreement for Practice Restriction (ICA) prohibiting him from performing robotic operative procedures. Board staff noted that competency evaluations by CPEP and

PACE are currently delayed due to COVID-19 and limitations for visitors at the evaluating facilities/hospitals. Board staff received information from Dr. Benjamin's attorney confirming that they had initiated scheduling the competency evaluation with PACE but required an extension to complete scheduling and the actual performance of the evaluation due to COVID-19 restrictions. On April 22nd, 2020, Dr. Benjamin advised he declined to sign the ICA and requested to participate in a formal interview at the Board's earliest convenience. This case is now before the Board based on Dr. Benjamin's decision to decline the ICA.

Mr. Alden stated that the ICA would put Dr. Benjamin out of practice due to health plan termination. Mr. Alden explained that once Dr. Benjamin had his privileges reinstated he has maintained his good standing, with no peer review flags since this occurrence. Mr. Alden noted that one of these cases are from 2016, one from 2017 and two from 2018. Mr. Alden reviewed the opinions of the physicians who provided opinions in support of Dr. Benjamin's care and treatment of the patients at issue. Mr. Alden stated that Dr. Benjamin is not a danger to the public or his patients and is ready to complete the PACE competency assessment and to have an opportunity for a formal interview and argued that an interim restriction will result in healthcare termination and would be the end of his practice.

Board staff clarified the MC's opinions.

Dr. Krahn inquired about the volume of robotic surgeries that have been completed in the past six months by the physician.

Dr. Benjamin informed the Board that he has performed 2,170 robotic procedures since his completing his training and does about 200 to 300 procedures per year.

Dr. Paul inquired about additional information from the peer review process that occurred.

Board staff informed the Board that the MEC minutes have been added to the case file.

Dr. Figge commented that the physician was cleared after a week's investigation and a treatment plan to remedy the issues going forward was submitted.

During Board deliberation, Dr. Farmer noted that the licensee has agreed to a competency evaluation and opined that the question Before the Board is to determine if there is a danger to the public regarding the physician completing robotic surgeries while waiting for the competency evaluation to be completed. Dr. Bethancourt opined that given the time from when the cases occurred and this summary action takes away from the urgency. Dr. Bethancourt opined that the Board should wait for the evaluation and invite the physician in for an interview. Dr. Gillard opined that a restriction was not needed as the physician will complete the evaluation. Dr. Figge noted that there is no realistic timeline for when the evaluation will be completed given the Covid-19 delay. Dr. Paul agreed that the Board should delay taking action until the PACE evaluation will take place.

Ms. Rivera commented that there is no timeline for the process to take place due to the nature of California's current situation.

**MOTION: Dr. Gillard moved to return the case for further investigation to allow the physician to complete the evaluation as recommended by Board staff and then invite the physician for a Formal Interview to occur at the next regularly scheduled Board meeting after the evaluation is completed.**

**SECOND: Dr. Figge.**

Dr. Farmer opined that given the unknowns it is unfair to keep the physician in limbo given things are out of his control and asked if Board staff can keep in contact with the physician throughout the process for the evaluation.

Ms. Smith informed the Board that communication is standard in this type of scheduling and referred the question to Board staff, who confirmed that Board staff does keep in constant communication with the evaluating facility and the physician. Board staff explained the typical process for evaluations.

Dr. Farmer commented that given the follow up and the physician's constant communication and willingness to complete the evaluation he is comfortable with the motion.

Board members agreed to invite the physician in for an interview once it's completed.

Dr. Paul inquired if a second MC review is needed. Dr. Farmer opined the PACE evaluation result will be vastly clarifying. Dr. Krahn commented in favor of moving forward with the PACE evaluation. Dr. Figge opined evaluating the physician will determine his ability to provide safe medical care to the public.

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

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

**MOTION PASSED.**

## **E. ADJOURNMENT**

**MOTION: Dr. Gillard moved to adjourn.**

**SECOND: Dr. Figge.**

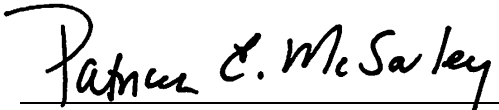
**VOTE: The following Board members voted in favor of the motion: Dr. Farmer, Dr. Gillard, Dr. Paul, Ms. Bain, Dr. Bethancourt, Ms. Dorrell, Dr. Figge, Ms. Jones and Dr. Krahn. The following Board members were absent: Dr. Beyer.**

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

**MOTION PASSED.**

The Board's meeting adjourned at 2:38 p.m.



  
Patricia E. McSorley, Executive Director