



## **Arizona Medical Board**

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### **FINAL MINUTES FOR TELECONFERENCE MEETING Scheduled to begin at 8:00 a.m. on Wednesday, August 5, 2020 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.  
Laura Dorrell, M.S.N., R.N.  
Gary R. Figge, M.D.  
Pamela E. Jones  
Lois E. Krahn, M.D.

#### **GENERAL BUSINESS**

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

Chairman Farmer called the Board's meeting to order at 8:04 a.m.

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

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

##### **ALSO PRESENT**

The following Board staff participated in the teleconference: Patricia McSorley, Executive Director; Kristina Fredericksen, Deputy Director; Michelle Robles, Board Operations Manager; William Wolf, M.D., Chief Medical Consultant; Raquel Rivera, Investigations Manager; and, Andrea Cisneros, Minutes Administrator. Also present were Carrie Smith, Assistant Attorney General ("AAG"); Anne Froedge, AAG; and Roberto Pulver, AAG. Elizabeth Campbell, AAG, also participated in the teleconference to provide the Board with independent legal advice 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 herein.

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

- Update on Board Processes and Staffing

Executive Director McSorley discussed her Executive Director Books for June and August of 2020. She stated that the Board's caseload has increased in Formal Interviews, noting that the Board conducted six Formal Interviews during today's proceedings, and pointed out that there are around 18 matters pending Formal Interview at a future Board meeting. Executive Director McSorley asked the Board for guidance regarding scheduling these matters, and that the Board consider convening committees to conduct the Formal Interviews as discussed at prior meetings. The Board proceed to the Chair's Report for further discussion on how to address the caseload pending Board review.

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

- Discussion and Consideration of Proposal to Conduct Disciplinary Interviews by Committee

The Board continued its discussion of convening committees to conduct the Formal Interviews with referral of complex cases to the full Board for Formal Interview. The Board noted that at its April 2020 meeting, the Board established the committee participants and previously discussed the process of conducting interviews by the committees. The Board also noted the possibility of conducting the committee meetings via the Zoom platform so as to allow for the Board and attendees to videoconference. Board members also discussed the two Board member vacancies, and questioned when the appointments would be made by the Governor's Office. Executive Director McSorley reported that she has contacted the Governor's Office at least twice a month to inquire as to the status of filling the Board member vacancies and has been informed that they are lining up candidates to interview.

Dr. Krahn spoke in support of conducting interviews through the committees. Ms. Jones noted an increase in individuals wanting to address the Board during the Public Statements and questioned whether staff had any data with regard to what causes an increase in speakers. Ms. Robles reported that the number of Public Statements speakers typically depends on the number of cases agendaized for the Board's meetings. The Board discussed utilizing the committees for conducting interviews during the current health crisis, and then revisiting this issue post-COVID to determine whether the Board would benefit from continuing in such a fashion. Executive Director McSorley informed the Board that the staff could prepare a draft of the committee processes for the Board's consideration and approval at its next meeting.

Chairman Farmer thanked the Board's staff for their hard work and efforts during the current health crisis.

## **F. LEGAL ADVISOR'S REPORT**

Dr. Gillard commented regarding New Jersey allowing non-citizens to obtain professional licensure, and questioned whether this will become an issue for the Board given the universal recognition licensure pathway available for applicants to obtain Arizona licensure. AAG Smith reported that A.R.S. § 42-1080 applies to any license issued in Arizona and requires lawful presence of the applicant.

## **G. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING REQUEST FOR ADDITIONAL APPROPRIATION FOR FY2022, DRAFT 2019-2020 ANNUAL REPORT AND DRAFT FY2020-2025 STRATEGIC PLAN**

Executive Director McSorley thanked the Deputy Director and Ms. Bain for their collaboration on these documents, and stated that she was available for any questions. Chairman Farmer encouraged Board members to forward any questions to the Executive Director.

## **H. DISCUSSION REGARDING DEBRIEFING ON BOARD PROCESSES**

## **I. APPROVAL OF MINUTES**

- June 3, 2020 Teleconference Meeting, Including Executive Session
- July 9, 2020 Special Teleconference Meeting

**MOTION:** Ms. Bain moved for the Board to approve the June 3, 2020 Teleconference Meeting, including Executive Session; and, the July 9, 2020 Special Teleconference Meeting.

**SECOND:** Dr. Bethancourt

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

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

## LEGAL MATTERS

### J. REVIEW, CONSIDERATION AND POSSIBLE ACTION ON PROPOSED BOARD ORDER ARISING FROM ADMINISTRATIVE LAW JUDGE'S ("ALJ's") RECOMMENDED DECISION

#### 1. MD-18-0973A, XAVIER MARTINEZ, M.D., LIC. #18944

Dr. Martinez and Attorney Gary Spector participated in the teleconference during the Board's consideration of this matter. AAG Pulver participated on behalf of the State, and AAG Campbell participated to provide the Board with independent legal advice. Board members indicated that they received and reviewed the administrative record of the Formal Hearing in this matter.

AAG Pulver summarized that Dr. Martinez has been disciplined by the Board in the past, is still on probation for felony conviction, has an extensive history of violating sexual boundaries with patients and staff, as well as an extensive history of drug and alcohol addiction. AAG Pulver stated that Dr. Martinez has had several opportunities to correct his behavior and has failed to do so. He pointed out that Dr. Martinez submitted correspondence to the Board wherein he admitted to multiple unprofessional conduct statutes, and that the ALJ sustained a total of 7 statutory violations. AAG Pulver requested the Board adopt the ALJ's recommended decision as it is necessary to protect the public and allow the physician an opportunity to focus on his recovery.

Dr. Martinez stated that he is not the same person that the Board interviewed in March of 2018, and that he has been humbled and ashamed by his past behavior. He stated that he initially attended rehabilitation in 2008 for 90 days, and that he was monitored for five years on Probation with negative toxicology tests. Dr. Martinez stated that his second and most recent rehabilitation course was in June of 2018, and that the Board told him at that time that he had a chance to get his license back if he followed through with the recommendations to go to residential treatment for addiction recovery. Dr. Martinez reported that he completed 120 days of residential treatment, and that upon discharge, the facility recommended that he get his license back. He stated that the Board's expert who reviewed his records also recommended license reinstatement. Dr. Martinez stated that he has done everything the Board has asked of him, has been in therapy for over two years, and continues to see his therapist regularly as well as attending weekly group meetings.

Mr. Spector stated that since the initial event that occurred in December of 2017, Dr. Martinez has done everything requested of him by the Board, including attending residential treatment for longer than originally anticipated. He reiterated that the facility and the expert reviewer recommended reinstatement of the license and pointed out that both experts were hired by the Board to determine the physician's ability to safely practice. Mr. Spector explained that the felony charge is an open-ended conviction that they anticipate to be reduced to a misdemeanor which they plan to petition to have vacated and set aside. He asked the Board to reject the ALJ's recommendation and reinstate the license to allow Dr. Martinez to practice medicine under conditions of Probation as set forth by the Board.

AAG Pulver reported that Dr. Martinez began drinking again after his previous period of probation and monitoring was terminated by the Board. He directed the Board's attention to the ALJ's Conclusions of Law #18, which discussed the crux of the case being that the physician continued to paint himself as the victim in this matter. AAG Pulver stated that the record established that Dr. Martinez has downplayed the manner of his contact with patients, and that his attempts to issue apologies to the Board are disingenuous. He stated that rather than being completely forthright with the Board, Dr. Martinez has tried to cast himself in the best possible light. He stated that the Board's experts' recommendations for license reinstatement are guarded and included recommendations

for practice restrictions. AAG Pulver asked the Board to follow the ALJ's recommended decision in this matter.

Dr. Beyer stated that he was not convinced that the public is protected if the Board does not follow the ALJ's recommendation in this matter. Dr. Beyer commented that there are too many red flags that strike him as a problem, and he spoke in support of adopting the ALJ's recommended decision. Dr. Krahn echoed Dr. Beyer's concerns, and stated that when the Board recommends any combination of examinations or evaluations, there is no guarantee that the licensee will be viewed favorably by the Board in the end after completion of the requirements. Dr. Krahn stated that she continues to have significant concerns given the relations and nature of the complaints.

**MOTION:** Dr. Paul moved for the Board to adopt and modify the ALJ's recommended Findings of Fact by replacing "judgement" with "judgment" in Findings of Fact #13 line 8, and by replacing "apposition" with "a position" in Findings of Fact #18 line 23.

**SECOND:** Dr. Krahn

The Board discussed the AAG's request to modify Findings of Fact #13 and #18 to correct typographical errors.

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

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

**MOTION PASSED.**

**MOTION:** Dr. Figge moved for the Board to adopt the ALJ' recommended Conclusions of Law.

**SECOND:** Ms. Jones

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

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

**MOTION PASSED.**

The Board noted that physicians have the ability to apply for licensure after a prescribed period of time following surrender or revocation of the license, and would be required to demonstrate that the appropriate steps have been taken to remedy the issues that resulted in surrender/revocation of the license.

**MOTION:** Dr. Beyer moved for the Board to adopt the ALJ's recommended Order for License Revocation and assessment of Formal Hearing costs.

**SECOND:** Dr. Bethancourt

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

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

**MOTION PASSED.**

**MOTION:** Dr. Krahn moved for the Board to approve the proposed Board Order for License Revocation and assessment of Formal Hearing costs.

**SECOND:** Dr. Paul

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

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

**MOTION PASSED.**

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

### **1. MD-19-0007A, AMAR P. SHARMA, M.D., LIC. #40693**

Dr. Sharma and Attorney Artie Eaves participated in the teleconference during the Board's consideration of this matter.

Mr. Eaves stated that it is undisputed in this case that a medication error occurred as a result of mistakes made by two nurses. He explained that one nurse entered the wrong medications into the patient's chart, and that another nurse mistakenly told Dr. Sharma that the medications were independently verified when this was not true. Mr. Eaves recalled that the Board previously discussed concerns relating to the physician's failure to obtain Controlled Substance Prescription Monitoring Program ("CSPMP") data on this patient, which could have prevented the medication error. He pointed out that the CSPMP does not track Methadone. He also noted that the Board had previously discussed that the physician had time to call the family based on the timestamp on the chart; however, he explained that the patient was not transferred to the floor until around 10:00 p.m., and that Dr. Sharma did attempt to call the son that evening without success. Mr. Eaves added that the Board's decision in this matter will set the standard for physicians in the hospital to independently verify each and every medication themselves prior to authorizing medications, which would not be manageable.

Dr. Sharma explained his involvement in this patient's care, and confirmed that he attempted to contact the patient's son in the evening without success. Dr. Sharma stated that the patient's family was well informed of the patient's care as documented in his notes, and pointed out that he has no prior Board history.

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

**SECOND: Dr. Bethancourt**

Dr. Figge stated he did not find that rehearing or review was warranted and stated that this was not the juncture for rehashing of the case. Dr. Beyer spoke in support of the motion and stated that had the incident occurred in 2005 prior to the implementation of the CSPMP, the Board would have reached the same outcome in this matter. He commented that whether or not Methadone was captured on the CSPMP did not materially affect the Board's decision.

Dr. Krahn also spoke in favor of the motion and stated that the fundamental deficiency identified in this case was the physician's failure to obtain information from the patient's family. Dr. Krahn stated that while she appreciated the physician's comments that an attempt was made, it was this important act that did not happen that led to the issue. Dr. Krahn added that she agreed with Dr. Beyer's comments relating to the CSPMP issue and stated that this issue alone is not a basis for the Board to rehear the case.

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

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

**MOTION PASSED.**

## **L. FORMAL INTERVIEWS**

### **1. MD-19-0475A, TAHIR YAQUB, M.D., LIC. #40115**

Chairman Farmer informed the Board members that Board staff had reported that Dr. Yaqub signed the proposed Consent Agreement, and asked for the physician to confirm this information prior to proceeding to the next matter. Dr. Yaqub joined the teleconference and explained that he had difficulty accessing the Board's meeting and signed the Consent Agreement today so as to show the Board that he was making an effort and not ignoring their concerns but did it in a panic since he could not get through to the Board for the scheduled Formal Interview. Dr. Yaqub requested the Board allow

him to proceed with the Formal Interview in lieu of considering the proposed Consent Agreement. The Board elected to proceed with the Formal Interview.

Board staff summarized that the investigation was initiated based on a Disciplinary Alert Report ("DAR") received from the Federation of State Medical Boards ("FSMB") indicating that Dr. Yaqub was disciplined by the California Board in the form of a Letter of Reprimand with requirements to complete CME in prescribing and medical recordkeeping. Board staff reported that Dr. Yaqub has completed the CME requirements, and that the Staff Investigational Review Committee ("SIRC") recommended issuing a Letter of Reprimand that mirrored the California Board's Order. Dr. Beyer questioned whether the proposed violation was based on the action taken by the California Board, or the underlying issues identified in the California Board's investigation. AAG Froedge advised the Board that Dr. Beyer's question would be appropriate for the deliberation phase of the Formal Interview.

Dr. Yaqub stated that it was his understanding that the Board's investigation stemmed from the California Board action. He stated that he obtained licensure in California in 2006, and Arizona licensure in 2008. He stated that he practiced in a small rural area in California and that there was no access to pain specialists. He stated that in 2011, one of his colleagues in the group passed away, and his patients were distributed among the providers in the group. Dr. Yaqub summarized that the patient in this case was on more than one narcotic at the time that he saw her, and that he tapered her down to almost half of her presenting MME. Dr. Yaqub stated that he monitored the patient for diversion, and ultimately discharged her from his practice after she violated her pain contract. The patient subsequently died of an opioid overdose while under the care of another provider. Dr. Yaqub informed the Board that the California case stemmed from the California Board's investigation into deaths due to overdose reported by the Coroner's Officer, and that the California Board found his records were incomplete. Dr. Yaqub admitted that his notes were incomplete on at least two visits with the patient. He stated that he did not only cut down this patient's medications, but made every effort to refer her for specialty consultation. He stated that he now utilizes Electronic Medical Records ("EMR") in his practice and that he ensures that the records meet the appropriate standards and includes the necessary information in order to promote continuity of care.

In response to Ms. Dorrell's questioning, Dr. Yaqub explained that he gives his patients the benefit of the doubt, but became suspicious of the patient after red flags were raised regarding her behavior. He stated that it is difficult to objectively quantify a patient's pain, and reiterated that he did not treat a lot of chronic pain patients. Ms. Dorrell noted that the licensee completed the CME courses soon after the California Board's Order became effective, and questioned how he treats chronic pain patients in his current practice. Dr. Yaqub reported that he no longer accepts chronic pain patients into his practice, and that he is in the process of establishing a partnership with a pain specialist. Dr. Yaqub assured the Board that his medical recordkeeping is no longer an issue, and stated that he did his best in treating the patient in this case. He stated that his practice has been affected by the California disciplinary sanction, including loss of contracts with some insurers, and a pharmacy refusing to fill prescriptions for his patients. He asked the Board to consider resolving this case without disciplinary action so as to allow him to continue practicing without restriction. Board staff confirmed for the Board that the investigation was initiated solely off the California Board's action, and clarified that these matters do not involve an in-depth review of the other board's investigation as Board staff does not always have access to the out of state records.

Ms. Dorrell found that the physician engaged in unprofessional conduct based on the action taken by the California Board.

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

**SECOND: Dr. Beyer**

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

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

**MOTION PASSED.**

Ms. Dorrell recognized that Dr. Yaqub has completed the CME courses as ordered by the California Board and appears to have learned from this case. She spoke in support of issuing a non-disciplinary Advisory Letter.

**MOTION: Ms. Dorrell moved for the Board to issue an Advisory Letter for action taken by the State of California. While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against the licensee.**

**SECOND: Dr. Figge**

Dr. Gillard spoke against the motion and stated that he would support dismissal based on mitigating circumstances, including completion of the CME and the fact that the case involved a single patient. Dr. Beyer spoke in support of the motion based on the sustained unprofessional conduct in this case. Dr. Figge spoke in favor of the motion and stated that a non-disciplinary Advisory Letter is an appropriate resolution to this case. He stated that a violation did occur in that there was action taken by the California Board. Dr. Figge recognized the physician's completion of the CME courses. Dr. Gillard noted that an Advisory Letter is non-disciplinary and is not published on the physician's profile on the Board's website. Dr. Gillard stated that he found an Advisory Letter to be an appropriate resolution after hearing from other Board members.

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

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

**MOTION PASSED.**

**2. MD-18-0795A, MATTHEW E. VANASCO, M.D., LIC. #34180**

Dr. Eric Lott addressed the Board during the Public Statements portion of the meeting on behalf of Dr. Vanasco.

Dr. Vanasco and Attorney Michelle Thompson participated in the teleconference during the Board's consideration of this case.

Board staff summarized that this matter was initiated after Dr. Vanasco self-reported a DUI charge in November of 2018. Dr. Vanasco underwent inpatient evaluation and received multiple diagnoses and recommendations. In December of 2018, Dr. Vanasco was issued an Interim Order for PHP assessment. On January 7, 2019, Dr. Vanasco arrived at the medical center for a scheduled procedure, staff noticed he was shaking, and he was ultimately suspended indefinitely as a result of a positive alcohol screen. Dr. Vanasco subsequently completed treatment and after discharge underwent a post-treatment assessment with the Board's Physician Health Program ("PHP") Contractor. The PHP Contractor opined that Dr. Vanasco was safe to practice provided that he participates in PHP for a period of five years for aftercare monitoring. Board staff reported that although the MC did not identify a deviation from the standard of care regarding a specific patient, Dr. Vanasco had a positive breathalyzer test prior to his work shift.

Ms. Thompson informed the Board that they had requested a continuance of the Formal Interview until such time that the licensee could meet with the Board in person. She stated that while they recognize the current pandemic, they strongly believe that due process requires the physician be afforded the opportunity to appear in person before the full Board or, at a minimum, via videoconferencing. She explained that this matter stemmed from a DUI that occurred two years ago, and that the physician voluntarily

reported the DUI charge to the Board in a timely manner. Ms. Thompson stated that Dr. Vanasco voluntarily entered into PHP over 1.5 years ago, and that he has been sober for 20 months. She stated there have been no violations of the standard of care in this case, and that the licensee has never presented to work intoxicated. She stated that Dr. Vanasco has been compliant with PHP, and has gone above and beyond what PHP has required of him. Ms. Thompson requested the Board allow the physician to continue his PHP participation without issuing disciplinary action, which she stated would be devastating to his career and livelihood.

In response to Dr. Krahn's line of questioning, Dr. Vanasco explained that on January 7, 2019, he presented to the medical center and was observed by nurses to exhibit changes in his demeanor and three days later while driving to work, he was contacted by a member from his group instructing him to take a breathalyzer test prior to his shift. Dr. Vanasco complied and blew a 0.08. Dr. Vanasco stated that he had been drinking the night before and did not expect to have any alcohol left in his system by the start of his shift. He pointed out that a repeat breathalyzer test that was performed 15 minutes after the first test showed a result of 0.07. Dr. Vanasco was instructed by his group to not present for his scheduled shift that day and was suspended indefinitely. Upon further questioning by Dr. Krahn and Dr. Figge, Dr. Vanasco confirmed that had he not been called on by a member of the group to undergo testing prior to his shift on the 10<sup>th</sup>, he would have presented to work as scheduled.

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

**SECOND: Dr. Krahn**

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

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

**MOTION PASSED.**

The Board entered into Executive Session at 11:03 a.m.

The Board returned to Open Session at 11:12 a.m.

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

Dr. Beyer observed that in his initial response to the Board's investigation, Dr. Vanasco discussed his regret and taking responsibility for his actions. Dr. Beyer questioned the physician regarding what he believed would be a fair resolution to this case with respect to the Board's protection of Arizona patients. Dr. Vanasco stated that he deeply regrets his actions and that he has used this as a learning opportunity. He stated that he has taken responsibility by notifying the Board immediately after testing positive and has been sober since that time. He stated that he has no desire to consume alcohol going forward, and that he will remain accountable through the PHP program. Dr. Vanasco reported that he has been seeing his therapist and psychiatrist more often than required as he genuinely wants to get better.

In closing, Ms. Thompson stated that the end goal is the same in protecting the public by allowing the physician to continue in PHP without a disciplinary sanction. Dr. Vanasco asked the Board to allow him to continue practicing while participating in PHP while he continues to work on being a better physician and person.

Dr. Krahn found that the physician engaged in unprofessional conduct in this matter for reasons as stated by SIRC.

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

**SECOND: Dr. Figge**



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

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

**MOTION PASSED.**

Dr. Krahn stated that the physician's testimony was extremely helpful, and that she felt the licensee has really used this opportunity to help the Board understand the circumstances. Dr. Krahn did not find that this matter rises to the level of discipline, and recommended that the physician be offered a Stipulated Rehabilitation Agreement for PHP participation for five years, retroactive to March 15, 2019. Dr. Krahn also recommended issuing an Advisory Letter, and that the matter return to the Board if the physician declines to sign the agreement.

**MOTION: Dr. Krahn moved for the Board to offer the physician a Stipulated Rehabilitation Agreement with terms and conditions consistent with the current Interim Consent Agreement. The PHP participation shall be retroactive to March 15, 2019. Once signed, issue an Advisory Letter for presenting to work while under the influence of alcohol. 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. If not signed, return the matter for further proceedings at the next regularly scheduled board meeting.**

**SECOND: Dr. Paul**

Dr. Figge questioned whether the physician would be willing to enter into such an agreement with the Board. Chairman Farmer pointed out that if the agreement is not signed, the matter will return to the Board for further consideration and action.

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

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

**MOTION PASSED.**

**3. MD-19-0178A. MING-JAI LIU. M.D., LIC. #47701**

HN, JN, and Dr. Vera addressed the Board during the Public Statements portion of the meeting on behalf of Dr. Liu.

Dr. Liu and Attorney Kraig Marton participated in the teleconference during the Board's consideration of this case.

Board staff summarized that on February 11, 2019, the Board initiated this matter after receiving a complaint regarding the care and treatment of patient NW, a psychiatrically unstable and vulnerable individual. The complaint alleged that Dr. Liu engaged in inappropriate sexual relations with the patient. On November 20, 2019, Dr. Liu entered into an Interim Consent Agreement ("ICA") for Practice Restriction that prohibited him from practicing medicine while the matter was pending further review. Thereafter, Dr. Liu completed a psychosexual evaluation with recommendations to attend outpatient counseling to address the physician's depressive symptoms and to cope appropriately, as well as an ethics class. The evaluator opined that successful and healthy management of the physician's depression would allow him to practice safely. In August of 2019, Dr. Liu completed PBI and entered into treatment with a psychologist. Dr. Liu was interviewed after his completion of the CME in ethics through PBI, and while he stated that he was responsible for what took place, he maintained that the patient was not vulnerable and seduced him.

Board staff reported that Dr. Liu subsequently entered into an amended ICA that allowed him to return to practice, provide a copy of his boundaries plan to the Board and his employer with written acceptance from the employer to implement the plan, and to continue treatment with a psychologist as recommended by the evaluator. Board staff further reported that during the course of the investigation, Dr. Liu admitted to engaging in sexual conduct with a patient on two occasions and failed to maintain adequate medical records.

Dr. Liu apologized to the Board and stated that he has accepted his wrongdoing and takes responsibility for his actions. He explained that his crossing of professional boundaries with the patient was a result of the loss of his wife, and stated that he was vulnerable and lonely. Dr. Liu stated that he developed a friendship with the patient that allowed her to cross that boundary, and that he now realizes he is the professional and is liable. He stated he learned through PBI that he is to take responsibility for the situation no matter who instigated it, and that he recognizes that practicing medicine is a privilege. Dr. Liu assured the Board that he would not repeat the misconduct and asked that he be granted a second chance to continue to practice without restriction. Mr. Marton stated that Dr. Liu has admitted to the alleged unprofessional conduct and are not opposed to most of SIRC's recommendations for discipline to resolve this matter. Mr. Marton stated that they oppose the idea that Dr. Liu be restricted from seeing female patients for five years. Mr. Marton pointed out that in November of 2019, SIRC approved amending the ICA to allow the licensee to return to practice and see all patients, and that none of the Board's experts recommended restrictions. Mr. Marton stated that they submitted a number of letters of support from the physician's employers, office staff and patients that have indicated the physician should be allowed to practice without restriction.

In response to Ms. Jones' line of questioning, Dr. Liu confirmed that he has shared his boundary plan with his employers and that he has asked them for their assistance to help him be more self-aware. He reiterated that the misconduct would not be repeated. Ms. Jones questioned whether a Medical Assistant ("MA") accompanied Dr. Liu during examinations. Dr. Liu stated that he did not use a chaperone unless one is requested as most exams performed in his practice are not invasive. Dr. Liu explained to the Board his plans for maintaining appropriate boundaries with patients as well as office staff. He stated that he has outlined the red flags that he believes he needs to be aware of so as to not cross boundaries going forward. Upon questioning by Dr. Beyer, Dr. Liu reported that his office's sexual harassment policy and code of ethics documentation have been posted in the office as a reminder to himself and staff. He added that the office staff meets monthly to discuss maintaining professional communication and interaction with patients and staff.

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

**SECOND: Dr. Krahn**

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

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

**MOTION PASSED.**

The Board entered into Executive Session at 1:06 p.m.

The Board returned to Open Session at 1:16 p.m.

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

In closing, Mr. Marton pointed out that one of the individuals who spoke during the Public Statements was a female patient that approached the physician after seeing the ICA posted and asked how she could help. He stated that the criminal investigation determined that the conduct was consensual and did not find that the patient was impaired. He stated that the physician has explained to the Board his remediation and what he plans to do going forward to ensure that the conduct is not repeated. He stated

that any restriction issued against the license would be punitive and is not needed to protect the public. Dr. Liu stated that he has offered an apology to the patient, his profession, and his family. He stated that he has lost his hard-earned reputation as a result of the situation, and that he has paid a hefty price. He requested the Board allow him to continue to practice without restriction.

Ms. Jones found that the physician engaged in unprofessional conduct for reasons as stated by SIRC, with the exception of the recordkeeping violation. She stated that she did not believe that the violation was sustained as there appeared to be notes referring the patient for social support and follow up with other providers. Dr. Figge disagreed and stated that the physician admitted to omitting information from the record as he was afraid that the patient would see it. Dr. Figge spoke in support of sustaining all four of the proposed statutory violations per SIRC's recommendation. Ms. Jones stated that after giving it further thought, she agreed with Dr. Figge's comments and supported sustaining all five statutory violations as proposed by SIRC.

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

**SECOND: Dr. Beyer**

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

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

**MOTION PASSED.**

Ms. Jones found that this matter rises to the level of discipline and stated that she struggled with regard to whether a restriction was warranted that would prohibit the physician from seeing female patients for a period of five years. Ms. Jones stated that she appreciated the physician's testimony and that his employer has indicated their willingness to assist him. She stated that she found the physician's violation of the patient's trust was egregious and that while the physician's testimony has been helpful, she struggled with whether or not the physician should be allowed to continue to see female patients without restriction. She noted that the physician has been practicing without such a restriction for the past seven months.

Dr. Figge agreed with Ms. Jones' comments and stated that he was baffled by the fact that such a restriction was not included in the amended ICA. Dr. Figge pointed out that the amended agreement was approved by the Lead Board Member and staff, and that it appeared that they did not find it necessary to restrict the physician practice at that time. For these reasons, Dr. Figge spoke against imposing a restriction on the physician's ability to see female patients going forward. Dr. Figge stated that this case rises to the level of discipline as the physician has admitted to the egregious conduct. Ms. Bain thanked Dr. Figge for his comments and stated her concerns regarding the nature of the complaint and the need for a chaperone. Dr. Beyer spoke in support of issuing discipline without a restriction. Dr. Beyer stated that there did not appear to be a pattern in the physician's behavior, and that this clearly occurred at a time in the physician's life when he was making extremely poor decisions. Dr. Beyer stated that he heard from the physician's testimony a very real internalized boundary plan that he has made part of his practice.

Dr. Gillard agreed with Dr. Beyer's comments and noted that the Board has historically issued disciplinary action in matters involving physicians having relationships with their patients. Dr. Gillard stated that he did not find that a practice restriction was warranted. Dr. Krahn stated she found that discipline was warranted based on the egregious misconduct, but found the event to be isolated and that she believed the risk of a repeat offense was very low. Dr. Krahn spoke in favor of proceeding with a disciplinary sanction without restricting the licensee from seeing female patients. Ms. Jones reiterated her concerns that the physician's conduct was an egregious violation of the patient's trust.

Ms. Jones agreed with Ms. Bain's comments relating to the office staff's willingness to assist the physician going forward.

**MOTION: Ms. Jones moved for draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure.**

**SECOND: Dr. Figge**

Dr. Figge spoke in favor of the motion and stated that he believed this was an isolated event. He noted that Dr. Liu engaged his office staff in discussions regarding boundaries after completing the course, and stated that he was not concerned with the physician seeing female patients going forward in light of his office staff's involvement in the physician's plan going forward. Dr. Gillard spoke against the motion and stated that the licensee's misconduct has been mitigated by his actions. Dr. Gillard stated that he would support the issuance of a Letter of Reprimand.

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

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

**MOTION PASSED.**

## **M. FORMAL INTERVIEWS**

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

Dr. Marshall and Attorney Steve Myers participated in the teleconference during the Board's consideration of this matter.

Board staff summarized that this matter was initiated after notification of a malpractice settlement involving failure to diagnose lung cancer. The Medical Consultant ("MC") who reviewed the case found that Dr. Marshall deviated from the standard of care by failing to order prompt follow-up x-ray after abnormality was seen in 2014. This case was previously considered by the Board and resulted in the issuance of a Letter of Reprimand. Dr. Marshall's subsequent motion for rehearing was granted and the matter returned for a new quality of care review by a second MC. Board staff reported that the second MC was critical of Dr. Marshall's interpretation of the films and found that there was a lack of follow-up and disregard for symptoms that possibly related to cancer symptoms as well as suboptimal medical records.

Mr. Myers stated that he was surprised by the Board's extended focus on the physician's prior Advisory Letters during the previous Formal Interview. Mr. Myers explained that the Board's processes at the time that the Advisory Letters were issued differed from the manner with which the Board currently conducts its investigations. Dr. Marshall stated that he interpreted the films as normal during the patient's visit, and believed the findings to be consistent with valley fever infection. Dr. Marshall stated that he believed the findings of the 2013 x-ray were not cancerous. He reported that he has since closed his x-ray facility and refers all films to board-certified radiologists. Dr. Marshall also reported that he has made changes in his practice that provide patients with a safe, more efficient patient experience. Dr. Marshall stated that he did not believe his care fell below the acceptable standards, and informed the Board that he has completed CME in recordkeeping and risk management.

In response to Dr. Beyer's questioning, Dr. Marshall reported that he no longer doing chest radiographs in his office and that he has learned from this experience. Dr. Marshall explained that he initially saw the patient for pain in the right side of the neck, and that during a subsequent work-up a nodule was found on the left side weeks after he saw the patient. Dr. Beyer noted that the concerns raised in this case were similar to the issues identified in a prior case involving the physician that occurred in the 1990s. Dr. Beyer noted that the second MC who practices in the same specialty as the licensee, was very critical of Dr. Marshall's care in this case. Dr. Marshall stated that the patient continued to

be active and exercising the whole year that he saw him in 2015, and that none of his symptoms suggested that there was an underlying issue such as cancer. Dr. Marshall added that he believed the patient would have exhibited other major symptoms if the cancer was happening during that time.

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

**SECOND: Ms. Jones**

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

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

**MOTION PASSED.**

The Board entered into Executive Session at 3:23 p.m.

The Board returned to Open Session at 3:32 p.m.

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

Dr. Figge noted that the x-ray dated July 30, 2013 showed linear stranding, and that 2.5 weeks later, the patient presented with genetic testing that showed the patient was at an increased risk for cancer. Dr. Figge questioned the physician as to why he did not obtain a repeat chest x-ray or follow up on or react to the genetic testing information presented to him by the patient. Dr. Marshall explained that part of his concierge-type practice involved patients undergoing chromosome analysis. He stated that a number of diagnoses are included on the results, and that it was later learned that the testing was faulty, had no clinical relevance, and was later removed from the market. Dr. Figge commented that he believed the genetic testing information carried some clinical relevance in this case given that the patient also had an abnormal finding of chest x-ray. Dr. Marshall reported that this was a difficult patient, and pointed out that the patient delayed obtaining the 2016 x-ray due to concerns of radiation exposure. Dr. Marshall stated that the patient did not return for his July of 2014 appointment, and that it was not until December 2014 that he was seen again and at that time refused the chest x-ray.

Dr. Krahn noted that the patient was seen for a total of 11 visits from August 17, 2013 and December 19, 2014. Dr. Marshall stated that he only saw the patient on five occasions during that time frame, and that the patient was seen by other providers in the office for different services. Dr. Gillard noted the findings of stranding on the 2013 film, and stated that he could not find in the records where Dr. Marshall recommended a chest x-ray that was refused by the patient. Dr. Marshall stated that he ordered a chest x-ray in the standard battery of tests and that the patient refused it due to the associated costs.

In closing, Mr. Myers asked the Board members to not consider the prior Advisory Letters as he stated they were issued during a time that the Board had deficiencies and irregularities in its processes. He stated that the case involved difficult and extenuating circumstances of a patient who refused x-rays, and asked that discipline not be issued. Dr. Marshall stated that of his five prior Advisory Letters, three were clinical and two were related to issues that were non-clinical. Dr. Marshall stated that he has learned from this case and the further education, and that he does not pose a risk to the public.

Board staff noted that Dr. Marshall submitted additional information to the Board that included x-rays and a letter from a radiologist who reviewed the films. Board staff stated that while the radiologist concluded that the physician did not violate the standard of care, the findings within the letter were not entirely consistent with that conclusion. Dr. Beyer observed that two MCs reviewed this case and determined that the physician missed multiple opportunities to avoid the outcome. Dr. Beyer found that there was a delay in diagnosis that was potentially avoidable, and that there was a lack of documentation as to why the patient did not obtain the recommended studies. Dr. Beyer spoke in favor of sustaining the statutory violations as recommended by SIRC.

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

**SECOND: Dr. Krahn**

Dr. Krahn stated that she was troubled by today's interview by the licensee's overall approach to this. Dr. Krahn stated that she was also troubled by how much the licensee has pointed the finger at many different factors and not so much taken responsibility for his role in this.

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

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

**MOTION PASSED.**

Dr. Beyer stated that the facts of this case and the gravity of the outcome warrants a Letter of Reprimand.

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

**SECOND: Dr. Krahn**

Dr. Gillard stated that a follow-up film was needed in light of the small change between 2011 and 2013. He noted that Dr. Marshall testified that the patient refused to obtain the repeat film, but this was not documented in the patient's chart. Dr. Gillard spoke against the motion and stated that he believed the physician has learned from this experience including having gone through litigation with the malpractice case. Dr. Paul spoke in favor of the motion and stated that a follow-up film should have been obtained. Dr. Figge stated that he agreed with other Board members' comments, and stated that the physician should have documented the patient's refusal to obtain the repeat film. Dr. Bethancourt spoke in support of the motion and stated that the abnormal findings warranted further follow-up. Dr. Beyer commented that the physician should have used the genetic testing results as a tool to encourage the patient to obtain the follow-up films.

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

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

**MOTION PASSED.**

**2. MD-17-1180A, MARK B. DEKUTOSKI, M.D., LIC. #47104**

Dr. Dekutoski and Attorney Steve Myers participated in the teleconference during the Board's consideration of this matter. Dr. Vandenheede summarized that the Medical Consultant ("MC") found that Dr. Dekutoski deviated from the standard of care in his treatment of this patient who developed fluid collection gradually over a period of weeks following stenosis operation performed by Dr. Dekutoski.

Dr. Dekutoski stated that the patient's condition was not caused by hematoma or compressive mass. He stated that the patient was evaluated and managed postoperatively in an appropriate and timely manner. Mr. Myers noted that the MC had commented that surgical exploration was warranted. He stated that the postoperative lumbar MRI failed to reveal a fluid collection or other compression lesion that warranted returning the patient to surgery. Mr. Myers stated that Dr. Dekutoski is board-certified in orthopedic surgery and has no prior Board history. He asked that the case be dismissed.

Dr. Figge noted that the documentation in this case was lacking and caused questions to be raised regarding the care provided to the patient. Dr. Dekutoski explained that the patient was seen on the 27<sup>th</sup> by the Physician Assistant ("PA") and that an MRI was

ordered that morning after noting urinary incontinence. Dr. Dekutoski stated that he saw the MRI and the patient later that evening, and added that performing explorative surgery within 24-48 hours of the initial surgery places the patient at an increased risk for complications. In response to Dr. Figge's further questioning, Dr. Dekutoski stated that they kept the patient for two days, and discharged her after improvement was noted. He stated that he was actively following this patient's progress along with his PA. Dr. Krahn noted that the complaint alleged the physician had no direct communication with the patient, and that communication was through the PA. Dr. Krahn questioned the physician as to how he handles postoperative patients, particularly those with a difficult course. Dr. Dekutoski stated that his group practice covers nine hospitals and utilizes a number of PAs interactively for consistent communication.

Dr. Figge stated that based on his review of the information gathered in this case, he struggled with regard to whether this matter rises to the level of unprofessional conduct. He stated that while the recordkeeping could have been better, he was not sure that it warranted the sustaining of a statutory violation. Dr. Figge recognized the unfortunate outcome in this case, and that the patient may have had unrealistic expectations.

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

**SECOND: Dr. Gillard**

Dr. Gillard spoke in favor of the motion and agreed with Dr. Figge's comments. He stated that although the outcome was unfortunate, it did not appear that the physician was negligent in his care of the patient. Dr. Gillard also noted that the postoperative MRI did not show findings that warranted immediate surgical intervention. Dr. Paul also spoke in support of the motion, noting the physician's testimony. Dr. Bethancourt spoke against the motion and stated that there was a violation of statute that occurred in this case. He stated that the physician should have followed up with the patient. Dr. Bethancourt noted that the physician testified that in the postoperative setting, the patient reported experiencing urinary incontinence prior to surgery. Dr. Bethancourt stated that there was no documentation in the patient's chart to support these statements.

Dr. Beyer stated that having listened to the physician's testimony, he was not convinced that a statutory violation occurred in this case. Dr. Figge recognized that three different PAs were involved in this patient's care in addition to Dr. Dekutoski's involvement along with other consulting physicians from various specialties. Dr. Krahn noted that this case involved a complicated patient with needs that were hard to meet.

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

**VOTE: 7-yay, 2-nay, 1-abstain, 0-recuse, 0-absent.**

**MOTION PASSED.**

## **N. FORMAL LICENSING INTERVIEWS**

### **1. MD-18-0585A, ASHWIN P. NAMBIAR, M.D., LIC. #N/A**

Dr. Nambiar participated in the teleconference during the Board's consideration of this matter.

Board staff summarized that this case was initiated in June 2018 after receiving Dr. Nambiar's application for Arizona licensure in May of 2018. The application process was suspended due to an ongoing investigation with the California Board. After conclusion of the California Board matter, the Board unsuspended the application process in August of 2019. Review of the application revealed that Dr. Nambiar was convicted of DUI and after complying with sentencing requirements, his court-ordered probation was terminated April 5, 2019. The California Board reviewed the incident involving the DUI conviction and issued the physician a probationary license with stayed revocation, effective June 5, 2019. SIRC reviewed the matter and recommended PHP assessment, which Dr. Nambiar

completed in January of 2020 and was found safe to practice with recommendations to comply with the California Board's Order. SIRC recommended offering the applicant a Consent Agreement for Probationary Licensure requiring PHP participation for five years with stipulations as reflected in the California Board's Order.

Dr. Nambiar confirmed that he was convicted of DUI and that he reported the conviction to the California Board. Dr. Nambiar stated that he has done all that has been asked of him, and that he has done his best to work on his medical condition. Dr. Nambiar also confirmed that he does not yet have any plans for employment in Arizona. Dr. Gillard spoke in support of SIRC's recommendation for probationary licensure with PHP participation. Dr. Nambiar stated that he made a mistake and accepts responsibility for his actions. He reported that he has not consumed alcohol in over two years, and that his medical condition has been well-managed with his current therapy and medication regimens.

**MOTION:** Dr. Gillard moved for the Board to offer a Consent Agreement for a probationary license as recommended by SIRC.

**SECOND:** Dr. Krahn

The Board discussed whether the PHP participation would be retroactive to the effective date of the California Board's Order. AAG Smith pointed out that SIRC recommended five years participation in PHP. The Board noted that the physician had the ability to petition the Board for termination after the California Order is terminated.

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

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

**MOTION PASSED.**

## **CONSENT AGENDA**

### **O. CASES RECOMMENDED FOR DISMISSAL**

**MOTION:** Dr. Gillard moved for the Board to dismiss item numbers 1, 2, and 3.

**SECOND:** Dr. Paul

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

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

**MOTION PASSED.**

1. MD-20-0099A HIMAL R. SHAH, M.D., LIC. #36976

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

**RESOLUTION:** Dismiss.

2. MD-19-0544A, NELSON A. SANDOVAL, M.D., LIC. #22531

**RESOLUTION:** Dismiss.

3. MD-20-0055A, TODD K. MALAN, M.D., LIC. #34046

**RESOLUTION:** Dismiss.

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

**MOTION:** Dr. Figge moved for the Board to issue an Advisory Letter in item numbers 2, 4, 5, 6, 8, 9, 10, and 12.

**SECOND:** Dr. Krahn



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

**VOTE:** 9-yay, 0-nay, 0-abstain, 0-recuse (*recusals noted in item numbers 1 and 3 as referenced herein*), 1-absent.

**MOTION PASSED.**

1. MD-19-0808A, OLGA GOKOVA, M.D., LIC. #51459

Complainant EW, Dr. Gokova and Attorney Robert Stultz addressed the Board during the Public Statements portion of the meeting.

Dr. Figge was recused from this case.

Dr. Bethancourt recalled the comments made during the Public Statements. Dr. Bethancourt stated that based on his review of the case, he could not find what may have been missed by Dr. Gokova. Dr. Gillard pointed out that the case involved a very unusual representation of compartment syndrome. Dr. Gillard agreed with Dr. Bethancourt's comments and spoke in favor of dismissal.

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

**SECOND:** Dr. Gillard

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

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

**MOTION PASSED.**

2. MD-19-1121A, WILLY HWANG, M.D., LIC. #51783

Attorney Mandi Karvis addressed the Board during the Public Statements portion of the meeting on behalf of Dr. Hwang.

**RESOLUTION:** Issue an Advisory Letter for failure to recognize and diagnose an ascending thoracic aortic rupture, leak, and paraaortic hematoma on a CTA. While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against the licensee.

3. MD-19-0474A, BENIGNO F. DECENA, M.D., LIC. #32303

Dr. Figge was recused from this case.

Dr. Gillard stated that based on his review of the case, it appeared that this was more of a systems issue than any fault of the physician. Dr. Gillard observed that the physician did not receive the films, and also noted that Dr. Decena reported that he does not read films that he did not order himself.

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

**SECOND:** Dr. Bethancourt

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

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

**MOTION PASSED.**

4. MD-20-0122A, CHARLES W. SWETNAM, M.D., LIC. #7972

**RESOLUTION:** Issue an Advisory Letter for failing to timely sign a death certificate. 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-19-0847A, DONALD J. LAUER, M.D., LIC. #28479

Attorney Tony Langan addressed the Board during the Public Statements portion of the meeting on behalf of Dr. Lauer.

**RESOLUTION:** Issue an Advisory Letter for failing to order diagnostic imaging on an elderly patient subsequent to a fall. 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.

6. MD-19-1089A, MARK E. DONNELLY, M.D., LIC. #18917

**RESOLUTION:** Issue an Advisory Letter for performing an inadequate examination on a critically ill patient with known vascular compromise to the extremities. 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-19-0132A, RAJIV R. PARIKH, M.D., LIC. #21013

Dr. Parikh and Attorney Andrew Plattner addressed the Board during the Public Statements portion of the meeting.

Dr. Gillard observed that Dr. Parikh was attempting to wean the patient off of Methadone in order to switch him to buprenorphine, and that Dr. Parikh was not the original prescriber of the patient's Methadone. Dr. Gillard stated that while there appeared to be a violation for failure to have the proper certification, the physician has taken responsibility for the error, and Dr. Gillard stated he found the case does not rise to the level of unprofessional conduct.

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

**SECOND:** Dr. Krahn

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

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

**MOTION PASSED.**

8. MD-19-0915A, RAUL A. LOPEZ-GONZALEZ, M.D., LIC. #32357

Attorney John Checkegt addressed the Board during the Public Statements portion of the meeting on behalf of Dr. Lopez-Gonzalez.

**RESOLUTION:** Issue an Advisory Letter for failure to pursue treatment of an enlarging splenic artery aneurysm. 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.

9. MD-19-0464A, WILLIAM A. MEYER, M.D., LIC. #17015

**RESOLUTION:** Issue an Advisory Letter for failing to surgically evaluate a torsion of the ovary. The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.

10. MD-19-0786A, PAUL R. VALBUENA, M.D., LIC. #41643

Attorney Dina Anagnopoulos addressed the Board during the Public Statements portion of the meeting.

**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-19-0387B, RANDALL P. SCOTT, M.D., LIC. #27944**

Ms. Jones noted that Dr. Scott denied writing prescriptions for his estranged daughter and did not have any records, and that the information gathered in this case revealed that the physician prescribed for his daughter in 2010 and 2012. Ms. Jones noted that the date of these prescriptions exceeded the statute of limitations, that Dr. Scott has completed the ProBE course in ethics, and that the prescriptions were not for controlled substances. For these reasons, Ms. Jones spoke in favor of dismissal. Dr. Figge also spoke in support of dismissing the investigation.

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

**SECOND: Dr. Figge**

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

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

**MOTION PASSED.**

**12. MD-19-0862A, FRED P. MENDOZA, M.D., LIC. #33077**

**RESOLUTION: Issue an Advisory Letter for failure to timely order imaging to evaluate for a fracture causing a delay in diagnosis and treatment. There is insufficient evidence to support disciplinary action.**

**13. MD-20-0032A, JOSEPH G. ABDO, M.D., LIC. #22398**

Dr. Gillard noted that the Medical Consultant ("MC") did not find issues with the care provided by Dr. Abdo. He also noted that on one occasion, the patient demanded to be seen by the physician rather than the Physician Assistant who was seeing the patient while he was unavailable, and that when the physician became available and attempted to see the patient, the patient had left the office. Dr. Gillard spoke in favor of dismissal.

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

**SECOND: Dr. Figge**

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

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

**MOTION PASSED.**

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

**1. MD-19-0702A, MD-19-0818A, DOUGLAS J. KRELL, M.D., LIC. #49982**

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

Dr. Gillard noted Dr. Krell's history with the Board and the comments made during the Public Statements. Dr. Gillard stated that while he agreed that an Advisory Letter is appropriate, he questioned whether CME was warranted.

**MOTION: Dr. Gillard moved for the Board to issue an Advisory Letter for failure to appropriately address hypertension, elevated blood glucose levels, and glycosuria in pregnant 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.**

Board staff explained that this was an obstetrical case that involved the physician's failure to address the patient's hyperglycemia and hypertension until the third trimester. Dr. Krahn stated her concerns regarding the recordkeeping issues identified in this case. She stated that the physician is ultimately responsible for his notes. Dr. Krahn spoke in support of the Advisory Letter with Non-Disciplinary CME Order in this case for the physician to obtain further education for the obstetrical and recordkeeping issues identified. Dr. Gillard withdrew his motion.

**MOTION:** Dr. Krahn moved for the Board to issue an Advisory Letter and Order for Non-Disciplinary CME Order for failure to appropriately address hypertension, elevated blood glucose levels, and glycosuria in pregnant 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. Within six months, complete no less than 5 hours of Board staff pre-approved Category I CME in the evaluation, monitoring, and treatment of diabetes and hypertension in pregnant patients. The CME hours shall be in addition to the hours required for license renewal.

**SECOND:** Ms. Dorrell

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

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

**MOTION PASSED.**

2. MD-19-0387A, MICHELLE S. GRUA, M.D., LIC. #27477

Attorney Gary Fadell addressed the Board during the Public Statements portion of the meeting on behalf of Dr. Grua.

**MOTION:** Dr. Figge moved for the Board to issue an Advisory Letter and Order for Non-Disciplinary CME for prescribing medications to a family member and for failing to create or maintain medical records. While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against the licensee. Within six months, complete no less than 15 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding ethics. 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: Chairman Farmer, Dr. Gillard, Dr. Paul, Ms. Bain, Dr. Bethancourt, Ms. Dorrell, Dr. Figge, Ms. Jones, and Dr. Krahn. The following Board member was absent: Dr. Beyer.

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

**MOTION PASSED.**

**R. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS**

**MOTION:** Dr. Krahn moved for the Board to uphold the dismissal in item numbers 1, 2, 3, 5, 6, 8 and 9.

**SECOND:** Ms. Jones

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

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse (*one recusal noted in item #9 as stated herein*), 0-absent.

**MOTION PASSED.**

1. MD-19-1009A, DAVID J. FUSCO, M.D., LIC. #43189

**RESOLUTION:** Uphold the dismissal.

2. MD-19-0587A, DANIELLE NANCE, M.D., LIC. #50742

**RESOLUTION:** Uphold the dismissal.

3. MD-19-0817A, TIMOTHY J. GELETY, M.D., LIC. #21851

**RESOLUTION: Uphold the dismissal.**

4. MD-19-0668A, MICHAEL L. HAM, M.D., LIC. #26357

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

Ms. Jones stated that she knows Dr. Ham, but that it would not affect her ability to adjudicate the case.

Dr. Gillard questioned whether a culture should have been taken and requested input from other members. Dr. Beyer noted that the MC did not identify this as an issue. Dr. Bethancourt questioned the accuracy of a culture of the ulcer. Board staff stated that the MC was aware of the bacterial cornea ulcer and found no deviation.

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

**SECOND: Dr. Paul**

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

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

**MOTION PASSED.**

5. MD-19-0643A, ALICIA L. COWDREY, M.D., LIC. #48436

Complainants HM and BM addressed the Board during the Public Statements portion of the meeting. Dr. Cowdrey also addressed the Board during the Public Statements.

**RESOLUTION: Uphold the dismissal.**

6. MD-19-0643B, ARIS E. D. MOSLEY, M.D., LIC. #52978

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

**RESOLUTION: Uphold the dismissal.**

7. MD-19-1080A, MARZBAN M. HAYYERI, M.D., LIC. #28018

Dr. Gillard observed that the patient complained of experiencing a complication from staples that should have been placed in the prostate that he alleged were placed in the bladder. Dr. Gillard noted that the patient subsequently underwent removal of the staples with a different surgeon, who did not comment on the number of staples removed or where they were located at the time of removal.

Board staff explained that the procedure performed by Dr. Hayyeri involved placing staples into the urethra just below the bladder, and stated that she believed the second surgeon would have mentioned in his operative report had staples been found in the bladder at the time of removal. She pointed out that the patient did well for 1.5 years without any complications. Board staff commented that she would expect to see complications within that timeframe had the staples been placed in the bladder. Board staff stated the MC opined that the procedure was done appropriately, and that it is not clear if the staples were inappropriately placed. She added that based on the procedure as described, the staples appeared to have been placed appropriately, otherwise complications would have occurred earlier on in the patient's postoperative course.

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

**SECOND: Dr. Beyer**

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

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

**MOTION PASSED.**

**8. MD-20-0009A, CONSTANTIA A. ABARIKWU, M.D., LIC. #22780**

Complainant BK, Dr. Abarikwu and Attorney Scott King addressed the Board during the Public Statements portion of the meeting.

**RESOLUTION: Uphold the dismissal.**

**9. MD-19-0632A, STEVEN C. ZEILLER, M.D., LIC. #33741**

Dr. Figge was recused from this case.

**RESOLUTION: Uphold the dismissal.**

**10. MD-20-0083A, CAMERON G. JAVID, M.D., LIC. #27248**

Complainant SK addressed the Board during the Public Statements portion of the meeting. Attorney Cynthia Patane also addressed the Board during the Public Statements on behalf of Dr. Javid.

Chairman Farmer stated that he knows Dr. Javid, but that it would not affect his ability to adjudicate the case.

Dr. Gillard observed that the patient experienced complications that resulted in loss of vision in one eye. He noted that the Medical Consultant ("MC") opined that the increased intraocular pressure is a known complication of the procedure performed, and felt that the risk versus benefit weighed in favor of the treatment that was provided in this case. Dr. Gillard questioned whether a second MC review was warranted given the serious adverse outcome.

Chairman Farmer stated that the MC's opinion was clear, and questioned what specific issues Dr. Gillard would like a new MC to address. Dr. Gillard stated that there was a question regarding indications and stated he believed the patient deserved to have another opinion obtained. Board staff pointed out that the patient's diagnosis was made by more than one ophthalmologist, and that the medication was known to have risk of leading to glaucoma. Board staff confirmed that the patient was at great risk of losing vision without treatment, while glaucoma is a recognized complication of the treatment. Board staff pointed out that the physician documented the patient's non-compliance with medications and stated that the failure of the physician and patient to work together increases the risk of unfortunate complications.

Dr. Figge stated that the patient's questionable compliance complicated the situation and increased the potential for an adverse outcome. Dr. Figge spoke in favor of upholding the dismissal. Chairman Farmer recognized that the case resulted in a very serious complication, and stated that the Board's expert has opined that the care provided was within the standard of care. Dr. Gillard stated that the case deserved a bit more scrutiny in that there was a bad outcome and needed to be discussed. He spoke in support of upholding the dismissal.

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

**SECOND: Dr. Figge**

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

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

**MOTION PASSED.**

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

**MOTION:** Dr. Krahn moved for the Board to accept the proposed Consent Agreement in item numbers 1, 2, 3, 5, and 6.

**SECOND:** Dr. Bethancourt

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

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

**MOTION PASSED.**

1. MD-20-0338A, NITA K. BABCOCK, M.D., LIC. #49882

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

2. MD-19-0419A, GORDON T. DONESKEY, M.D., LIC. #15879

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

3. MD-19-0233, STEVEN COHEN M.D., LIC. #28261

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

4. MD-19-0546A, HERBERT W. JONES, M.D., LIC. #29347

Dr. Gillard observed that the proposed Consent Agreement in this case captured "Letter of Reprimand" in the caption at the top right corner of the document. However, he pointed out that the document failed to capture "Letter of Reprimand" in the Order section of the proposed Consent Agreement. AAG Smith requested the Board table this matter in order for Board staff to correct the document and return the case to the Board at its next meeting.

**MOTION:** Dr. Gillard moved for the Board to table this matter and forward the case to the Board's next meeting.

**SECOND:** Dr. Paul

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

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

**MOTION PASSED.**

5. MD-20-0344A, MARGARET L. KUNES, M.D., LIC. #25565

Dr. Paul stated that he knows Dr. Kunes, but that it would not affect his ability to adjudicate the case.

**RESOLUTION:** Accept the proposed Consent Agreement for License Reactivation and Five Year Probation for PHP participation. Dr. Kunes shall enter treatment with a PHP Contractor-approved addiction medicine specialist or psychiatrist and shall comply with any and all treatment recommendations, including taking any and all prescribed medications. After one year, Dr. Kunes may request the PHP Contractor terminate the requirement to remain in treatment with a treatment specialist. Prior to the termination of Probation, Dr. Kunes must submit a written request to the Board establishing that she has successfully satisfied all of the terms and conditions of this Order.

6. MD-19-0942A, MANITH S. MANN, M.D., LIC. #37232

**RESOLUTION:** Accept the proposed Consent Agreement for a Letter of Reprimand and Two Year Probation with Practice Restriction. Dr. Mann's practice shall be prohibited from prescribing controlled substances until he has completed the Board-ordered CME, enters into an agreement with a Board-approved monitor for

chart reviews, and provides Board staff with satisfactory proof of compliance with these requirements. Within six months, complete no less than 15 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding controlled substance prescribing, and no less than 10 hours of Board staff pre-approved Category I CME in medical recordkeeping. The CME hours shall be in addition to the hours required for license renewal. Within 30 days of completion of the CME, enter into a contract with a Board-approved monitoring company to perform periodic chart reviews at the physician's expense. The chart reviews shall involve current patients' charts for care rendered after the date the physician returned to practice. After three consecutive favorable chart reviews, the physician may petition the Board to terminate the Probation.

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

### **1. MD-19-0241A, MARIA S. POSADAS, M.D., LIC. #35890**

**MOTION:** Dr. Gillard moved for the Board to approve the 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. The CME hours shall be in addition to the hours required for license renewal. The Probation shall terminate upon proof of successful completion of the CME coursework.

**SECOND:** Dr. Krahn

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

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

**MOTION PASSED.**

## **U. LICENSE APPLICATIONS**

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

**MOTION:** Dr. Krahn moved for the Board to grant the license in item numbers 1, 2, 3, and 4.

**SECOND:** Ms. Jones

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

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

**MOTION PASSED.**

#### **1. MD-19-0167A, LEI LEI, M.D., LIC. #N/A**

**RESOLUTION:** Grant the license.

#### **2. MD-19-0663A, EDDIE L. GAINES, M.D., LIC. #N/A**

**RESOLUTION:** Grant the license.

#### **3. MD-20-0591A, DAVID B. KARCH, M.D., LIC. #N/A**

**RESOLUTION:** Grant the license.

#### **4. MD-20-0392A, MATTHEW M. GOODMAN, M.D., LIC. #N/A**

**RESOLUTION:** Grant the license.

#### **5. MD-20-0381A, JAMES A. WILCOX, M.D., LIC. #N/A**

Dr. Gillard observed that Dr. Wilcox is an osteopathic physician who became an allopathic physician. Dr. Gillard also noted that Dr. Wilcox holds a medical license in Iowa and has applied for Arizona licensure by way of universal recognition. Dr. Gillard questioned whether the applicant was subject to the Board's postgraduate



training requirements for foreign medical graduates. AAG Smith informed the Board that the universal recognition licensing pathway requires the Board to accept the licensing requirements of the State from which the applicant holds licensure in good standing.

Dr. Krahn noted that Dr. Wilcox did not disclose his Iowa osteopathic license on his Arizona license application under his licensure history though he did disclose osteopathic licenses he has held elsewhere. Chairman Farmer stated that this was clearly a complicated case.

**MOTION: Dr. Beyer moved for the Board to grant the license.**

**SECOND: Dr. Paul**

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

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

**MOTION PASSED.**

**6. MD-20-0201A, SIRISHA VADALI, M.D., LIC. #N/A**

**MOTION: Dr. Figge moved for the Board to approve the license as indicated in the Executive Director's memo.**

**SECOND: Dr. Krahn**

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

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

**MOTION PASSED.**

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

**1. MD-19-0719A, JOHN G. RENFREW, M.D., LIC. #54908**

**MOTION: Dr. Krahn moved for the Board to approve the license renewal application and to issue an Advisory Letter for failing to report a DUI in a timely manner and for knowingly making a false statement to an agent of the Board. While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against the licensee.**

**SECOND: Ms. Jones**

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

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

**MOTION PASSED.**

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

**1. MICHAEL G. MANOLIOS, M.D., LIC. #N/A**

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

**SECOND: Dr. Figge**

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

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

**MOTION PASSED.**

## OTHER BUSINESS

### V. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-18-0791A, LOUIS G. TRUNZO, M.D., LIC. #19585

Dr. Beyer stated that while it has not been a full year of Probation, the licensee has complied with all of the probationary terms and conditions. Dr. Beyer stated that the request was reasonable and spoke in support of granting termination.

**MOTION:** Dr. Beyer moved for the Board to grant the request to terminate the March 6, 2020 Board Order.

**SECOND:** Dr. Gillard

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

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

**MOTION PASSED.**

2. MD-19-0494A, FARAZ JAFFER, M.D., LIC. #R74613

Dr. Gillard noted that while two years has not yet passed, the physician has received a good prognosis and was found to be low risk. Dr. Gillard spoke in favor of granting the request to terminate the Board Order.

**MOTION:** Dr. Gillard moved for the Board to grant the request to terminate the November 8, 2019 Board Order.

**SECOND:** Dr. Paul

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

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

**MOTION PASSED.**

3. MD-14-0230A, MARK R. AUSTEIN, M.D., LIC. #14196

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

Dr. Gillard noted that three consecutive favorable chart reviews were required for the Board to entertain a request for termination of Dr. Austein's Board Order. He recognized that some of the chart reviews were deemed unfavorable, for which the licensee received an Advisory Letter at a prior meeting. Dr. Gillard observed that Dr. Austein has acquired three favorable chart reviews and has complied with the terms of his PHP monitoring. He spoke in favor of granting the request to terminate the Board Order.

**MOTION:** Dr. Gillard moved for the Board to grant the request to terminate the February 2, 2017 Board Order.

**SECOND:** Dr. Beyer

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

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

**MOTION PASSED.**

4. MD-16-0856A, EHAB F. ABDALAH, M.D., LIC. #36239

IM addressed the Board during the Public Statements portion of the meeting. Dr. Abdalah and Attorney Camilla Alarcon also addressed the Board during the Public Statements.

Dr. Figge observed that Dr. Abdalah completed the CME requirement, and had not yet undergone chart review monitoring.

**MOTION: Dr. Figge moved for the Board to deny the request to terminate the Board Order.**

Dr. Gillard recalled that the Board modified the Order in August of 2019 for Practice Restriction from prescribing controlled substances in lieu of the chart monitoring. Dr. Figge withdrew his motion.

Dr. Gillard observed that Dr. Abdalah completed PACE courses in prescribing and recordkeeping, and questioned whether he has satisfied the terms of his Board Order. AAG Smith pointed out that when the Order was modified, the termination language was changed to reflect that in the event the physician requested termination while the Practice Restriction was in effect, the Board may require a combination of examination and/or evaluation to determine whether the physician is safe to resume prescribing. She clarified that the Board is not required to order such examination or testing, but does have the option to do so if there are concerns regarding the physician's ability to safely return to prescribing.

Dr. Gillard noted that the Board's Order became effective on July 13, 2018, and that the two years expired in July 2020. Dr. Gillard stated that based on his review of the file, it appeared that the physician complied with the terms of his Probation. AAG Smith confirmed for the Board that Dr. Abdalah has not undergone chart review monitoring in this matter. Dr. Gillard pointed out that the physician would be required to obtain registration with the DEA in order to prescribe controlled substances. Board staff reported that the physician has obtained DEA certification, and commented that licensees typically apply to the Board before pursuing registration application with the DEA. Dr. Gillard stated that in light of the physician having to meet DEA requirements in order to obtain certification for prescribing controlled substances, he supported terminating the Order.

**MOTION: Dr. Gillard moved for the Board to grant the request to terminate the July 13, 2018 Board Order.**

**SECOND: Ms. Jones**

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

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

**MOTION PASSED.**

**5. MD-19-0598A, CAROL L. HIPPENMEYER, M.D., LIC. #26801**

**MOTION: Ms. Jones moved for the Board to grant the request to terminate the April 9, 2020 Board Order.**

**SECOND: Dr. Figge**

Dr. Gillard recognized that Dr. Hippenmeyer completed CME in recordkeeping and prescribing, and he spoke in favor of the motion to terminate.

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

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

**MOTION PASSED.**

**6. MD-15-0952A, DOUGLAS J. KRELL, M.D., LIC. #49982**

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

Dr. Figge recalled that Dr. Krell spoke during the Public Statements on this matter as well as agenda item number Q.1., and that the Board voted to issue an Advisory Letter with Non-Disciplinary CME Order in that matter. Dr. Figge recognized that Dr. Krell received

glowing reviews from the individuals he is working with, and spoke in favor of terminating the Board Order.

**MOTION:** Dr. Figge moved for the Board to grant the request to terminate the November 10, 2016 Board Order.

**SECOND:** Dr. Gillard

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

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

**MOTION PASSED.**

## **W. CONSIDERATION OF DUAL JURISDICTION OF THE AMB AND THE ARIZONA HOMEOPATHIC BOARD**

### **1. MD-20-0530A, NATHAN W. GOODYEAR, M.D., LIC. #56029**

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

Dr. Gillard observed that this case involved chemotherapy, which he stated would not be homeopathic in nature. He noted that the complaint stemmed from an oncologist in Pennsylvania who disagreed with Dr. Goodyear's chemotherapeutic regimen for this patient. Dr. Gillard stated he found this case to involve allopathic medicine and spoke in favor of asserting jurisdiction in this matter.

**MOTION:** Dr. Gillard moved for the Board assert jurisdiction in this matter. In the event that the Homeopathic Board elects to assert jurisdiction in this matter, the Board shall proceed to convene an arbitration panel to determine jurisdiction as provided in A.R.S. § 32-1407 and 32-2907.

**SECOND:** Dr. Krahn

Dr. Figge observed that Dr. Goodyear used conventional chemotherapy for this patient, clearly off-label and clearly as an alternative homeopathic approach for treatment. Dr. Figge noted that the patient signed acceptance of this alternative treatment. Dr. Krahn spoke in support of the motion to assert jurisdiction and stated that despite the patient having signed a consent form, the arbitration session is warranted for having it reviewed and a ruling made to determine which regulatory body is primary. Dr. Beyer spoke in favor of the motion and stated his concerns regarding the use of CMF (a combination of the drugs cyclophosphamide, methotrexate, and fluorouracil) regimen in such a manner as the physician did in this case as it is highly unconventional. Dr. Beyer stated that he was not comfortable with the care provided by Dr. Goodyear in this case. Dr. Bethancourt noted that Dr. Goodyear's field of practice is gynecology and not oncology, and questioned whether the physician was qualified to provide this therapy. AAG Smith requested a volunteer from the Board to participate in the arbitration panel in the event that the Homeopathic Board also asserts jurisdiction in this matter. Dr. Beyer volunteered to participate in the arbitration panel on the Board's behalf, and Dr. Krahn offered to participate in the event that Dr. Beyer is not available.

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

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

**MOTION PASSED.**

## **X. APPEAL OF EXECUTIVE DIRECTOR ACTION**

### **1. MD-19-0855A, HOWARD J. REUBEN, M.D., LIC. #21110**

Attorney Lon Taubman addressed the Board during the Public Statements portion of the meeting on behalf of Dr. Reuben.

**MOTION: Dr. Figge moved for the Board to reject the appeal and uphold the Executive Director's decision in this matter.**  
**SECOND: Dr. Krahn**

Dr. Beyer recognized that this situation was a unique one that involved the licensee practicing in a very unique way that did not appear to involve direct patient contact. Dr. Figge commented that while the physician may intend to not see patients, the Board did not have the ability to monitor this without placing the license on Probation, which would then potentially preclude the physician's ability to serve as Director. Dr. Krahn stated that these companies require a licensed physician to serve in such a role as it requires someone with the knowledge and judgment of a licensed physician. Dr. Krahn stated that she was troubled with the fact that the Board did not know how up to date the physician's fund of knowledge is and that she shared Dr. Figge's concerns. Dr. Krahn added that the manner in which the physician planned to practice does require medical knowledge, that it does represent a variant to the practice of medicine, and that she was not sure how the Board could proceed without requiring a fitness for duty examination to determine the physician's skill level.

Dr. Gillard recalled that the Board has issued administrative licensure for individuals to practice administrative medicine. He noted that Dr. Reuben wishes to no longer practice any direct patient care, and plans to review lab reports part-time. He questioned whether the Board could issue a restricted license prohibiting the physician from providing direct patient care and practice only administrative duties. Dr. Gillard proposed issuing a Letter of Reprimand and limiting the license to administrative duties only.

Dr. Figge stated that issuing a restricted license would prohibit the physician from practicing in such a fashion that he plans to, and noted that the parties are requesting the physician be issued an unrestricted license with a promise by the physician to not see patients. Dr. Figge pointed out that less than one year ago, Dr. Reuben was noted to have been writing prescriptions for controlled substances out of his home, which resulted in the physician withdrawing his DEA application. Chairman Farmer stated that he shared Dr. Krahn's concerns and stated that the Board has reason to suspect that the physician's planned position requires a considerable depth of knowledge, and that an evaluation was warranted.

AAG Smith informed the Board that based on her conversations with counsel leading up to today's proceedings, the physician was willing to enter into a Consent Agreement for a Practice Limitation that would prohibit him from practicing outside of administrative duties that he has with his current employer. Dr. Krahn noted that Board staff reported attempts to obtain a list of the administrative duties involved in Dr. Reuben's current position and that this information had not provided by the physician. Dr. Figge spoke in support of proceeding with a fitness for duty evaluation. Chairman Farmer also spoke in favor of the evaluation requirement.

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

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

**MOTION PASSED.**

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

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

## **Z. ADJOURNMENT**

Dr. Krahn thanked the Chairman and Board staff for facilitating today's proceedings. Ms. Jones thanked the Deputy Director for her help the past week.

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

**SECOND: Dr. Bethancourt**


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

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

**MOTION PASSED.**

The Board's meeting adjourned at 6:26 p.m.



  
Patricia E. McSorley, Executive Director