



## Arizona Medical Board

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### FINAL MINUTES FOR SPECIAL TELECONFERENCE MEETING Held on Thursday, September 3, 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 5:03 p.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; Carrie Smith, Assistant Attorney General (AAG); Anne Froedge, AAG; William Wolf, M.D., Chief Medical Consultant; Michelle Robles, Board Operations Manager; and, Andrea Cisneros, Minutes Administrator. Elizabeth Campbell, AAG, participated in the teleconference to provide the Board with independent legal advice on the hearing matter(s) as referenced herein.

##### C. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA

Individuals who addressed the Board during the Public Statements portion of the meeting appear beneath the matter(s) referenced.

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

- Discussion and Approval of 2021 Meeting Calendar

Ms. Robles informed the Board that last-minute revisions were made to the Board's proposed 2021 Meeting Calendar due to the availability of the meeting room. She also reported that the Board's November 2021 meeting would require rescheduling due to the State Holiday that lands on the meeting date of November 11, 2021.

**MOTION:** Dr. Beyer moved for the Board to approve the proposed 2021 Meeting Calendar.

**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.**

Chairman Farmer thanked Ms. Robles for her efforts.

- Update on Review Committees to conduct Formal Interviews for October 8th Meetings  
Executive Director McSorley reported that the Board's October 2020 meetings will be held via Zoom, and that the first day of the Board's meeting will be dedicated to the Committees A and B for conducting Formal Interviews. She stated that the second day of the meeting will resume with the full Board for consideration of the Consent Agenda items telephonically.

**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 8:00 p.m.

The Board returned to Open Session at 8:19 p.m.

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

Dr. Gillard asked about the advantage of holding the Board's meetings via the Zoom platform versus the usual teleconference format. Chairman Farmer pointed out that the Board has had extensive discussion with staff and at past meetings regarding the pros and cons of utilizing the Zoom platform. Board members discussed their thoughts on the issue, and described their own experiences with attending meetings via Zoom. Ms. Robles informed the Board that staff has researched the different potential issues and has created some helpful tips for the public that wish to participate in the Board's proceedings.

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

- Recognition of AAG Anne Froedge on her Retirement From State Service  
The Board recognized AAG Froedge on her plans for retirement from State service. Chairman Farmer stated that she has represented the Board for many years and that he has had the privilege of working with her. He extended his heartfelt thanks to AAG Froedge's professionalism and grace under pressure, and thanked her for her service. Chairman Farmer congratulated her and wished her the best of luck. AAG Froedge thanked the Board, and stated that it has been an honor and privilege to represent the AMB.

Chairman Farmer reported that the Attorney General's Office is working to find a replacement, and that plans have been made for interim coverage. Chairman Farmer also reported that Dr. Paul has been appointed Chairman of the Board's Committee B and thanked him for accepting the appointment.

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

- Legal Advice to the Board on the Recusal and Abstention Process  
AAG Smith referred the Board members to her memo and stated that she was available for questions.

- Aldemir T. Coelho, MD-19-0317A, OAH 20A-12445-MDX, Notice of Dismissal  
AAG Smith informed the Board that the case was dismissed due to the unfortunate passing of Dr. Coelho, and that she was available for any questions.

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

Chairman Farmer noted that the Board's discussion under the Executive Director's Report captured the Board's thoughts relating to this topic.

## **H. APPROVAL OF MINUTES**

- August 5, 2020 Special Teleconference Meeting
- August 5, 2020 Teleconference Meeting, including Executive Session  
**MOTION: Dr. Bethancourt moved for the Board to approve the August 5, 2020 Special Teleconference Meeting, and the August 5, 2020 Teleconference Meeting, including Executive Session.**  
**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.**

## **LEGAL MATTERS**

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

1. MD-19-0184A, MD-19-1135A, MD-19-1143A, TIMOTHY C. SAPP, M.D., LIC. #30780

Dr. Sapp did not participate in the teleconference during the Board's consideration of this matter. AAG Froedge participated on behalf of the State, and AAG Campbell participated to provide the Board with independent legal advice. The Board members indicated that they received and reviewed the administrative record of the Formal Hearing in this matter.

AAG Froedge summarized that the above referenced cases involved multiple instances of unprofessional conduct by Dr. Sapp, including inappropriate prescribing of controlled substances and inadequate recordkeeping. The Board previously offered Dr. Sapp an Interim Consent Agreement restricting his ability to prescribe controlled substances and the physician declined. The licensee was thereafter summarily restricted from prescribing controlled substances while the matter was pending final adjudication. The cases were considered at Formal Hearing and the ALJ found that the Board had established by clear and convincing evidence that Dr. Sapp deviated from the standard of care by writing prescriptions to patients without documented clinical rationale, and that the records were inadequate. The ALJ recommended revoking the license, and AAG Froedge requested the Board adopt and modify the Recommended Decision for revocation of licensure. AAG Froedge clarified that she requested modification to a number of Findings of Fact to correct typographical errors, and to clarify inaccuracies in the ALJ's statements regarding Board processes.

**MOTION: Dr. Gillard moved for the Board to adopt and modify the ALJ's recommended Findings of Fact as proposed by the State in its motion to adopt and modify the ALJ's recommendation.**

**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.**

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

**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. Beyer moved for the Board to adopt the ALJ's recommended Order for License Revocation.

**SECOND:** Dr. Bethancourt

Dr. Beyer spoke in favor of license revocation and stated that the physician has had ample opportunity to engage with the Board.

**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 Board Order arising out of the ALJ's Recommended Decision for License Revocation.

**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.**

## **CONSENT AGENDA**

### **J. CASES RECOMMENDED FOR DISMISSAL**

**MOTION:** Dr. Paul moved for the Board to dismiss item numbers 1-5.

**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 (one recusal noted in item number 5 as referenced herein), 0-absent.

**MOTION PASSED.**

1. MD-19-1169A, REBECCA A. FRANZI-OSBORNE, M.D., LIC. #56048

Complainant BJ spoke during the Public Statements portion of the meeting. Dr. Franzi-Osborne and Attorney Scott King also addressed the Board during the Public Statements.

**RESOLUTION:** Dismiss.

2. MD-18-1168A, JASON C. DATTA, M.D., LIC. #34112

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

**RESOLUTION:** Dismiss.

3. MD-19-0685A, ROBERT J. HOFFMAN, M.D., LIC. #54717

**RESOLUTION:** Dismiss.

4. MD-19-0195A, CARLOS E. NEUMANN, M.D., LIC. #43983

**RESOLUTION: Dismiss.**

5. MD-19-0005A, ALLISON M. CRAIN, M.D., LIC. #50723

Attorney Robin Burgess addressed the Board during the Public Statements portion of the meeting on behalf of Dr. Crain.

Dr. Bethancourt was recused from this case. Dr. Paul stated that he knew Dr. Crain professionally and that it would not affect his ability to adjudicate the case.

**RESOLUTION: Dismiss.**

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

**MOTION:** Dr. Krahn moved for the Board to issue an Advisory Letter in item numbers 1, 4, 5, 6, and 9.

**SECOND:** Ms. Dorrell

**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-19-1059A, FRANCISCO R. VALDIVIA, M.D., LIC. #8483

Dr. Gillard stated that he knew Dr. Valdivia professionally and that it would not affect his ability to adjudicate the case.

**RESOLUTION:** Issue an Advisory Letter for canceling a stroke alert without assessing the patient and 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.

2. MD-19-0545A, EDWARD C. H. TENG, M.D., LIC. #47833

Complainant GG addressed the Board during the Public Statements portion of the meeting. Attorney Gordon Beuler also addressed the Board during the Public Statements, on behalf of Dr. Teng.

Dr. Beyer stated that he found the care was adequate in this case, and that the matter does not rise to the level of an Advisory Letter. He stated that the issue raised in this case was out of the physician's control, and spoke in support of dismissal.

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

**SECOND:** Dr. Gillard

Dr. Gillard agreed with Dr. Beyer's comments, and spoke in favor of dismissal. Dr. Krahn stated she observed that Dr. Teng took responsibility for making sure that the issue is not repeated in the future, and that she supported the motion to dismiss.

**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-19-1008A, WARREN H. HELLER, M.D., LIC. #8149

Complainant CB addressed the Board during the Public Statements.

Dr. Beyer stated his concerns regarding the issues identified by the Medical Consultant ("MC") including an excessive number of procedures being done with no explanation in the record and no consensus as to why this was being done in such an unconventional fashion. Dr. Beyer questioned whether CME was appropriate in addition to issuing the recommended Advisory Letter. Chairman Farmer stated that the issues in this case were unclear, and the Board considered inviting the licensee for a Formal Interview versus returning the matter for further investigation to obtain a second quality of care review by a new MC. Several Board members spoke in support of returning the case for further investigation to obtain additional information.

Dr. Beyer noted that the MC disagreed with the choice of procedure, and concluded in his report that performing all of the procedures is not a normal pattern, and that the physician fell below the standard of care in terms of information missing from the charts and lack of informed consent. Dr. Beyer proposed offering the licensee a disciplinary Consent Agreement. Chairman Farmer spoke in support of returning the case for another MC review to possibly clarify the circumstances and issues raised in this case.

**MOTION: Dr. Gillard moved for the Board to return the case for further investigation to obtain a second quality of care review by a second MC, and thereafter for the matter to return to SIRC.**

**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.**

**4. MD-19-1130A, BRETT R. BELOUD, M.D., LIC. #32229**

**RESOLUTION: Issue an Advisory Letter for failure to utilize proper cervical spine precautions for a patient presenting after a fall and head injury. There is insufficient evidence to support disciplinary action.**

**5. MD-19-1130B, RICHARD A. BOYD, M.D., LIC. #33974**

**RESOLUTION: Issue an Advisory Letter for failure to identify a cervical spine fracture on a CT scan. There is insufficient evidence to support disciplinary action.**

**6. MD-19-0838A, BRETT R. BELOUD, M.D., LIC. #32229**

**RESOLUTION: Issue an Advisory Letter for failure to properly evaluate a patient in the emergency department for cardiac issues with symptoms suggestive of cardiac disease. There is insufficient evidence to support disciplinary action.**

**7. MD-19-1077A, MARK S. BESSETTE, M.D., LIC. #18835**

Complainant EO and her husband addressed the Board during the Public Statements portion of the meeting.

Dr. Beyer recognized the tragic outcome in this case. He stated that he did not find the physician to have engaged in unprofessional conduct and spoke in support of dismissal.

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

**SECOND: Dr. Gillard**

Dr. Gillard stated his concerns regarding the circumstances surrounding the signing of the patient's death certificate and instructed staff to reach out to the Medical Examiner's Office. Executive Director McSorley confirmed that staff will inform the ME's Office that concerns were raised in this case and inquire as to their policies and procedures relating to a physician signing a death certificate under these circumstances.

Board staff reported that during the course of the investigation, the staff contacted the ME's Office at the request of the MC who was reviewing the case. The ME's Office indicated that the case was denied jurisdiction and that they did not address the entire situation. Dr. Wolf pointed out that it is common practice for the cause of death to be classified as unknown due to time constraints.

**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-20-0164A, MAURICE D. LEE, M.D., LIC. #45763**

Dr. Lee and Attorney Lauren Weinzwieg addressed the Board during the Public Statements portion of the meeting.

Dr. Paul stated that he knows Dr. Lee professionally and that it would not affect his ability to adjudicate the case.

Dr. Paul observed that the physician's assessment included that the patient was seeking controlled substances and that the patient's Controlled Substance Prescription Monitoring Program (CSPMP) data demonstrated 13 prescriptions for 5 different controlled substances by 8 different providers. He noted that Dr. Lee refused to prescribe controlled substances for the patient, and reported the foster parent to the Department of Child Services. Dr. Paul spoke in favor of dismissal.

**MOTION: Dr. Paul 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, Dr. Beyer, Ms. Dorrell, Dr. Figge, Ms. Jones, and Dr. Krahn.**

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

**MOTION PASSED.**

**9. MD-20-0229A, JEFFREY M. REAGAN, M.D., LIC. #49407**

**RESOLUTION: Issue an Advisory Letter for implanting an inappropriate total knee arthroplasty component resulting in the subsequent need for revision. 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.**

**10. MD-19-1079A, REBECCA L. GOLDMAN, M.D., LIC. #26147**

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

**MOTION: Dr. Gillard moved for the Board to issue an Advisory Letter for failing to timely communicate lab results to the patient. While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against the licensee.**

**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.**

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

### **1. MD-19-0864A, CONRAD D. BALLECER, M.D., LIC. #37738**

Dr. Ballecer and Attorney Steve Myers addressed the Board during the Public Statements portion of the meeting.

Dr. Bethancourt was recused from this case.

Dr. Gillard stated that while he supported the recommendation to issue an Advisory Letter in this case, he did not find that CME was warranted.

**MOTION: Dr. Gillard moved for the Board to issue an Advisory Letter for failing to maintain patient privacy in the operating room. 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. Krahn observed that the physician took a facetime call during the patient surgery and stated her concerns regarding the physician's judgment. Dr. Gillard noted that there was no patient identifying information shared during the facetime call and stated that he did not find a violation relating to that allegation. Ms. Jones stated her concerns regarding the lack of responsibility taken by the physician in this case, and stated that the patient had a reasonable expectation of privacy during their procedure. Ms. Jones also commented that such behavior could be distracting to the Operating Room staff, and that the physician was setting a poor example for the residents by taking a facetime call during surgery. Ms. Jones spoke against the motion and stated that the CME in ethics was warranted. She added that she found it unprofessional for the physician to have misrepresented himself to the Hospital's Medical Executive Committee ("MEC").

Dr. Gillard reiterated that no information was shared that could identify the patient. Dr. Beyer spoke against the motion and stated that he believed the CME was warranted. He stated his concerns regarding the physician's use of facetime while in the surgery suite, particularly with an individual who has no reason to see the patient. Dr. Figge recognized that Dr. Ballecer was not the surgeon involved in the surgery, and that he was supervising the procedure. Dr. Figge also noted that a plan for improvement was created, and the physician elected to resign his privileges. Dr. Figge stated his concerns regarding the physician having his phone in the operating room, and spoke in favor of issuing the recommended Advisory Letter.

Chairman Farmer noted that references were made in this case to online medical videos that demonstrate procedures, and stated that those instances typically involve the patients providing consent to allow the videos to be published. Dr. Paul spoke against the motion and stated that he agreed with Ms. Jones and Dr. Beyer's comments. He stated he found the physician's behavior cavalier and unprofessional.

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

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

**MOTION FAILED.**

**MOTION: Ms. Jones moved for the Board to issue an Advisory Letter and Order for Non-Disciplinary CME for failing to maintain patient privacy in the operating room. 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 CPEP's**



ProBE course in ethics. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Beyer

VOTE: The following Board members voted in favor of the motion: Chairman Farmer, Dr. Paul, Ms. Bain, 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 recused: Dr. Bethancourt.

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

MOTION PASSED.

2. MD-19-1111A, MD-19-1136A, MD-20-0205A, MICHAEL G. WADE, M.D., LIC. #15797

MOTION: Dr. Paul moved for the Board to issue an Advisory and Order for Non-Disciplinary CME for inadequate documentation while under chart reviews. 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 the intensive, in-person course regarding medical recordkeeping offered by CPEP. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Krahn

VOTE: The following Board members voted in favor of the motion: 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.

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

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

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-19-0652A, RAMOUN D. JONES, M.D., LIC. #35474

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

**RESOLUTION: Uphold the dismissal.**

2. MD-19-0652B, TODD W. TURLEY, M.D., LIC. #34623

Complainant DW addressed the Board during the Public Statements on this matter as well during her statement provided under item number 1.

**RESOLUTION: Uphold the dismissal.**

3. MD-19-1006A, PENNI A. WHITTEN, M.D., LIC. #33671

Complainant KM addressed the Board during the Public Statements portion of the meeting. Attorney Bruce Crawford and Dr. Whitten also addressed the Board during the Public Statements.

**RESOLUTION: Uphold the dismissal.**

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

MOTION: Dr. Gillard moved for the Board to accept the proposed Consent Agreement in item numbers 1-3.

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-20-0005A, MICHELLE T. M. CABALONA, M.D., LIC. #33404

**RESOLUTION:** Accept the proposed Consent Agreement for Letter of Reprimand and Probation. Within six months, complete no less than 5 hours of Board staff pre-approved Category I CME in the monitoring and management of chronic renal disease. 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.

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

**RESOLUTION:** Accept the proposed Consent Agreement for Letter of Reprimand and Five Year Probation to continue with the terms and conditions of the physician's HPSP participation agreement, retroactive to March 9, 2020. Prior to termination of Probation, the physician must submit a written request to the Board for release from the terms of the Board's Order.

3. MD-19-0860A, IVA A. SMOLENS, M.D., LIC. #35752

**RESOLUTION:** Accept the proposed Consent Agreement for Letter of Reprimand and Probation. Within six months, complete no less than 5 hours of Board staff pre-approved Category I CME regarding pulmonary anatomy and video-assisted thoracic surgery. 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.

4. MD-19-0852A, ROBERT B. SMITH, M.D., LIC. #6068

Dr. Gillard observed that SIRC recommended a Letter of Reprimand and Probation to complete CME, and that the licensee elected to surrender the license. Dr. Gillard questioned whether the physician was advised as to the nature of a surrender of licensure versus the discipline recommended in this case. AAG Smith stated that the physician was represented by an attorney who is highly experienced in Board matters.

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

**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.**

## **O. LICENSE APPLICATIONS**

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

1. MD-19-0166A, YOSEPH SHALEV, M.D., LIC. #N/A

**MOTION:** Dr. Gillard moved to approve the license application.

**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.**

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

**1. MD-19-1020A, ILANGO VAN GOVINDARAJAN, M.D., LIC. #N/A**

Ruth Anne Flower, NP, addressed the Board during the Public Statements on behalf of Dr. Govindarajan. Dr. Govindarajan and Attorney Kraig Marton also addressed the Board during the Public Statements.

Dr. Beyer stated that he was troubled by this case, and noted that the prior Board Order was tolled when the physician was deported from the United States. Dr. Beyer spoke in favor of reinstating the license and requiring the physician to continue compliance with the previously issued Board Order. Dr. Krahn stated her concerns regarding the situation and noted that the physician was previously allowed to see patients under the Board's Order. Dr. Krahn also stated her concerns regarding the significant period of time that the physician has not practiced medicine in the United States.

Dr. Gillard noted that the prior investigations did not include conduct that involved any of the physician's patients, and questioned whether fitness for duty or PACE evaluations were warranted prior to consideration of licensure. Dr. Bethancourt noted that the physician's previous Board Order was tolled and not completed. He also stated his concerns regarding the Board's inability to verify the physician's statements that he has been practicing medicine outside of the Country. Dr. Bethancourt spoke in support of denying the license based on concerns regarding the gap in practice, prior felony conviction, and incomplete Board process.

AAG Smith advised the Board to focus on whether the prior conduct has been resolved or corrected rather than the unprofessional conduct itself as the Board had previously adjudicated matter resulting in the disciplinary Board Order. Chairman Farmer spoke in support of license denial based on the unresolved circumstances and the lack of verifiable practice over a long period of time. Dr. Beyer spoke in support of establishing a mechanism for the applicant to complete evaluations to demonstrate his ability to practice, including competency and psychosexual evaluations. Dr. Figge stated his concerns regarding Dr. Govindarajan's plans to practice in Kingman if granted licensure, noting that the egregious conduct identified in the previous case occurred in Kingman.

Dr. Krahn recognized that Dr. Govindarajan previously completed treatment with documentation to support that improvement occurred; however, she stated her concerns that a future psychosexual evaluation would not be helpful in that the necessary confirmatory and collateral information would be difficult to obtain under the circumstances.

**MOTION: Dr. Figge moved for the Board to allow the physician to withdraw the license application in lieu of formal license denial. If the application is not withdrawn within thirty days, the license shall be denied based on A.R.S. §§ 32-1422(A)(3) and (4), (B) and (C).**

**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, Dr. Figge, Ms. Jones, and Dr. Krahn. The following Board member voted against the motion: Dr. Beyer.**

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

**MOTION PASSED.**

**2. MD-19-0933A, GEORGE F. GWINN, M.D., LIC. #N/A**

Dr. Figge stated his concerns regarding a number of issues raised in this case. He noted that Dr. Gwinn has not been cooperative with the Board's staff, implicating that

the Board may not be able to regulate the physician. Dr. Figge spoke in favor of allowing the applicant to withdraw the license application in lieu of formal license denial.

**MOTION: Dr. Figge moved for the Board to allow the applicant to withdraw the license application in lieu of formal license denial. If the application is not withdrawn within thirty days, the license shall be denied based on A.R.S. §§ 32-1422(A)(3) and (4), (B) and (C).**

**SECOND: Dr. Bethancourt**

Dr. Krahn spoke in support of the motion. She stated her concerns regarding the applicant's lack of cooperation with the staff causing the matter to be delayed further. Dr. Gillard agreed with Dr. Krahn's comments, and spoke in support of the motion. He noted that the applicant has been out of practice since 2014, that his board certifications have expired, and that his DEA certification was suspended. Dr. Gillard also noted that SIRC recommended the applicant undergo a competency evaluation and that the physician did not respond thereafter.

**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. THIS CASE WAS PULLED FROM THE AGENDA.**

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

**MOTION: Dr. Krahn moved for the Board to grant licensure by endorsement for item numbers 1 and 2.**

**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.**

**1. COURTLAND R. CARBOL, M.D., LIC. #N/A**

**RESOLUTION: Grant licensure by endorsement.**

**2. LAKSHMI V. KOCHERLAKOTA, M.D., LIC. #N/A**

**RESOLUTION: Grant licensure by endorsement.**

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

**1. JENNIFER H. JOHNSON, M.D., LIC. #N/A**

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

**SECOND: Dr. Figge**

**VOTE: The following Board members voted in favor of the motion: 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.**

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

## **OTHER BUSINESS**

### **P. REQUEST FOR MODIFICATION OF BOARD ORDER**

1. MD-19-0942A, MANITH S. MANN, M.D., LIC. #32732

Dr. Gillard observed that the physician has expressed his desire to retire and that he has surrendered his DEA certificate. Dr. Gillard spoke in support of granting the request to modify the Board Order as the physician has reported that he has no plans to prescribe controlled substances in the future.

**MOTION: Dr. Gillard moved for the Board to grant the physician's request to modify the Board Order.**

**SECOND: Dr. Paul**

The Board noted that while Dr. Mann may have surrendered his DEA certificate, if he renews his Arizona medical license, he would be eligible to apply for a new DEA registration in the future. Dr. Krahn questioned the physician's plans to retire while continuing to maintain an active license. She stated that she was troubled by this and spoke against the motion. Dr. Figge agreed with Dr. Krahn's comments, and stated that granting the request and allowing the physician to proceed without restriction could be problematic. Dr. Figge also pointed out that Dr. Mann did not describe a timeframe for when he plans to retire, other than within the next few years. Dr. Gillard questioned whether the Board had the ability to impose a Practice Restriction in lieu of requiring the physician to complete the CME in controlled substances prescribing.

AAG Smith advised the Board as to the mechanisms described in the termination language of the Board's Order. Dr. Gillard withdrew his motion. Dr. Krahn commented that the physician needed to have the knowledge as to how to manage patients who may be on controlled substances prescribed by others, and that requiring CME in controlled substances prescribing is not unreasonable given the circumstances that led to the disciplinary sanction.

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

**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.**

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

1. MD-18-0429A, FLOYD E. TRINIDAD, M.D., LIC. #33162

Dr. Figge observed that the physician has undergone re-evaluation, and that the Board's Contractor supported the request for Probation termination.

**MOTION: Dr. Figge moved for the Board to grant the request to terminate the April 16, 2019 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.**

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

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

## S. ADJOURNMENT

Chairman Farmer thanked the Board members and staff for their hard work and efforts, and commented that the Board has been functioning in an exemplary fashion under unusual circumstances.

**MOTION:** Dr. Bethancourt moved for the Board to adjourn.

**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's meeting adjourned at 8:43 p.m.



  
Patricia E. McSorley, Executive Director